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Mr. WILEY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 7794]

The Committee on the Judiciary, to which was referred the bill (H. R. 7794) to revise, codify, and enact into law title 35 of the United States Code entitled "Patents," having considered the same, reports favorably thereon, with amendments, and recommends that the bill, as amended, do pass.

AMENDMENTS

Amendment No. 1: On page 9, line 3 of subdivision (d), section 102, strike the word "or" and insert in lieu thereof the word "on".

Amendment No. 2: On page 29, subdivision (1) of section 282, strike out the word "or" and insert in lieu thereof a comma.

Amendment No. 3: On page 29, subdivision (1) of section 282, strike out the comma after the word "infringement" and insert in lieu thereof "or unenforceability,".

Amendment No. 4: On page 29, first line of section 284, strike out "Upon adjudging a patent valid and infringed" and insert in lieu thereof the following: "Upon finding for the claimant".

PURPOSE

The purpose of the proposed legislation is to revise and codify the laws relating to patents and enact into law title 35 of the United States Code entitled "Patents".

STATEMENT

Hearings were held in the House on H. R. 3760, which dealt with the matter of the codification of title 35, and as a result of those hearings the bill was revised and introduced as H. R. 7794.

This bill is part of the comprehensive program of revising and enacting into law all of the titles of the United States Code. Up to the present time 9 out of the 50 titles of the code have been revised and enacted into law and consideration or preparation of bills relating to a number of additional titles is in process.

For many years there had been considerable agitation for a complete restatement and codification of all the laws of the United States, inasmuch as the only such codification--the Revised Statutes of 1874--had become generally outmoded on all subjects.

In 1926, in response to widespread recognition of the need therefor, and after nearly 7 years' effort, the Congress adopted the United States Code, which was a codification of the existing general and permanent laws of the United States arranged in 50 titles according to subject matter, and which was declared to be prima facie evidence of the law.

Because of the size of that code Congress decided that it should undergo a testing period before it was enacted into positive law.

The code has now been subjected to such a testing period lasting more than 25 years.

The present patent laws consist of about 60 sections of the Revised Statutes of 1874, together with a large number of acts of Congress passed since that date revising various sections of the Revised Statutes or making new enactments not related to any section of the Revised Statutes.

Since the sections of the Revised Statutes relating to patents were merely a compilation of the act of July 8, 1870, 16 Stat. 198, our present patent law is essentially the act of 1870 with subsequent amendatory and supplemental enactments.

The last general revision of the patent laws was the act of July 8, 1870, which was enacted as part of a program to revise and consolidate all the laws of the United States then under way. In 1866 Congress passed a law providing for a commission to revise and consolidate the statutes of the United States. The Commission which was appointed to perform this work prepared a preliminary draft of the part relating to patents and copyrights in 1868, and a second preliminary draft in 1869. The following year a draft of the statutes relating to patents and copyrights as revised, simplified, arranged, and consolidated by the Commission was reported to Congress, and at the same time referred to the Committee on Patents; a bill was introduced by the chairman a few days later.

The object of the Commission on revision of the laws was only to revise, arrange, and consolidate the statutes in force and the draft reported from the Commission presumably was for this purpose only.

The probable reason for referring the matter to the Committee on Patents was that during this same period there had been suggestions for amending the patent laws in substance and it appears that the Committee on Patents studied the draft of the Commission and changed it by various amendments affecting matters of substance. The bill thus introduced was enacted on July 8, 1870, 16 Stat. 198, and included the subjects of copyrights and trade-marks as well as patents.

When the Revised Statutes, as in force on December 1, 1873, were enacted on June 22, 1874, the sections of the act of 1870 were distributed in various parts of the Revised Statutes.

As has already been stated, the present patent laws consist of the Patent Act of 1870 with subsequent enactments adding to or changing various sections of that original act. The first patent law was enacted in the second session of the First Congress in 1790. When the first Congress met, one of its very first items of business was the consideration of patents and copyrights, and the first patent bill was H. R. 10 of the First Congress.

The patent laws are enacted by Congress in accordance with the power granted by article I, section 8, of the Constitution which provides that:

"The congress shall have the power ... to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

This provision was unanimously adopted by the Constitutional Convention following suggestions for Federal jurisdication over both patents and copyrights which had been made in the Convention by James Madison of Virginia and Charles Pinckney of South Carolina. Each proposed separate provisions relating to patents and to copyrights which were merged by the Drafting Committee of the Convention into the general statement we now have, which was adopted without any dissenting voice.

The background, the balanced construction, and the usage current then and later, indicate that the constitutional provision is really two provisions merged into one. The purpose of the first provision is to promote the progress of science by securing for limited times to authors the exclusive right to their writings, the word "science" in this connection having the meaning of knowledge in general, which is one of its meanings today. The other provision is that Congress has the power to promote the progress of useful arts by securing for limited times to inventors the exclusive right to their discoveries. The first patent law and all patent laws up to a much later period were entitled "Acts to promote the progress of useful arts."

The first patent law, which was enacted on April 10, 1790, vested the jurisdiction to issue patents in a Board consisting of the Secretary of State, the Attorney General, and the Secretary of War. The person principally interested and the leader of the group was the Secretary of State, Thomas Jefferson, who was personally deeply interested in the subject matter of patent law. Jefferson was not a patentee himself, but he was the inventor of a number of devices, most of them being "gadgets."

This first law made the power of the Board to issue patents absolute, and also provided for various things that would be necessary in a general patent law.

While the Board, and particularly Thomas Jefferson, was quite favorable to the granting of patents, and granted them with great consideration, the other duties of members of this Board, in view of their high offices, made it impossible for them to devote much time to this work, and as a result the law was changed in 1793 to make the granting of patents a clerical function. Under the act of 1793 patents were granted to anyone who applied on fulfilling the formal requirements and filing the necessary papers and fees.

This law continued in force until 1836 when the dissatisfaction with the granting of patents without any examination as to novelty or other matters led to the appointment of a select committee by the Senate which introduced a bill that became the new law which was enacted on July 4, 1836. This new law contains the fundamental principles of our present patent law. It created a Patent Office with a Commissioner of Patents at the head, and examiners with the function of examining applications for patents and with the power to refuse patents, which was not present in the previous law. The law had many other provisions in it relating to details of procedure, enforcement of patents, and matters of that sort.

Amendments were made to this act of 1836 at various times until 1870 when the law was completely revised in the manner above referred to.

The present bill in a sense, then, is the second revision and codification of patent laws.

A detailed description of the provisions of H. R. 7794 as set forth in House Report No. 1923, Eighty-second Congress, is as follows:

Although the principal purpose of the bill is the codification of title 35, United States Code, and involves simplification and clarification of language and arrangement, and elimination of obsolete and redundant provisions there are a number of changes in substantive statutory law. These will be explained in some detail in the revision notes keyed to each section which appear in the appendix of this report. The major changes or innovations in the title consist of incorporating a requirement for invention in § 103 and the judicial doctrine of contributory infringement in § 271.

The bill divides the statutes into three parts. The first part contains the sections of the law relating to the Patent Office generally, its powers and duties and some ancillary matters of that kind. The second part consists of the sections relating to the conditions under which a patent may be obtained and the procedure in obtaining patents. The third part contains the sections relating to the patents themselves and the protection of rights under patents, and matters relating to that phase of the subject.

Stated generally, these three parts relate to, first, the Patent Office, second, obtaining a patent, and third, the patent itself. Of course it has not been possible to maintain this three-part division strictly and there may be some overlapping of the three phases of the subject. In each part the sections are arranged in several chapters of more or less homogeneous subject matter, with chapter headings.

The organization of the bill and the arrangement of the sections are such that new future amendments can readily find their place in the organization. Catch lines of parts, chapters, and sections are provided for convenience of reference.

The first chapter in part I relates to the Patent Office and covers the establishment of the Patent Office, its seal, officers and employees, restrictions on officers and employees as to interest in patents, bond of the Commissioner, duties of the Commissioner, the Board of Appeals, the Patent Office library, etc. Very little change is introduced in these sections. There is one change in section 3, relating to a temporary successor to the Commissioner when the office is vacant, filling a gap in the present law. There is a change in section 4 relating to the disability of Patent Office employees to obtain patents.

The next chapter collects some of the details relating to procedure in the Patent Office of general application with no important changes.

The next group, sections 31, 32, and 33 relate to practice before the Patent Office. In them the language of the prior statutes has been rearranged and divided into several sections. There has been no change in substance in these sections, except in the third of this group which is a criminal provision for unauthorized practice. The language has been considerably simplified, and the maximum fine has been raised from $ 100 to $ 1,000.

In the next group of sections, relating to Patent Office fees, there have been a few readjustments in some minor fees, and an upward change in the fee for an appeal to the Board of Appeals.

The sections of the first part apply to the Patent Office as such, and, except for provisions specific to patents, include trade-marks as well as patents, where they relate to organizational and procedural matters, since the registration of trade-marks is handled by the Patent Office.

Part II relates to patentability of inventions and the grant of patents.

Referring first to section 101, this section specifies the type of material which can be the subject matter of a patent. The present law states that any person who has invented or discovered any "new and useful art, machine, manufacture, or composition of matter, or any new or useful improvement thereof" may obtain a patent. That language has been preserved except that the word "art" which appears in the present statute has been changed to the word "process." "Art" in this place in the present statute has a different meaning than the words "useful art" in the Constitution, and a different meaning than the use of the word "art" in other places in the statutes, and it is interpreted by the courts to be practically synonymous with process or method. The word "process" has been used to avoid the necessity of explanation that the word "art" as used in this place means "process or method," and that it does not mean the same thing as the word "art" in other places.

The definition of "process" has been added in section 100 to make it clear that "process or method" is meant, and also to clarify the present law as to the patentability of certain types of processes or methods as to which some insubstantial doubts have been expressed.

Section 101 sets forth the subject matter that can be patented, "subject to the conditions and requirements of this title." The conditions under which a patent may be obtained follow, and section 102 covers the conditions relating to novelty.

A person may have "invented" a machine or a manufacture, which may include anything under the sun that is made by man, but it is not necessarily patentable under section 101 unless the conditions of the title are fulfilled.

Section 102 in paragraphs (a), (b), and (c) repeats the conditions in the existing law relating to novelty.

Subsection (a) is the language of the existing law, recognizing that the interpretation by the courts excludes various kinds of private knowledge not known to the public.

Paragraph (d) relating to a bar to patentability when the inventor has previously obtained a patent in a foreign country, represents a liberalizing change in the existing law.

Subsection (e) is another well-recognized condition imposed by a decision of the Supreme Court which was not expressed in the existing law; for the purpose of anticipating subsequent inventors, a patent disclosing the subject matter speaks from the filing date of the application disclosing the subject matter.

Subsection (f) merely emphasizes that it is the inventor that applies for the patent.

Subsection (g) relates to the question of priority of invention between rival inventors.

Section 102, in general, may be said to describe the statutory novelty required for patentability, and includes, in effect, an amplification and definition of "new" in section 101.

Section 103, for the first time in our statute, provides a condition which exists in the law and has existed for more than 100 years, but only by reason of decisions of the courts. An invention which has been made, and which is new in the sense that the same thing has not been made before, may still not be patentable if the difference between the new thing and what was known before is not considered sufficiently great to warrant a patent. That has been expressed in a large variety of ways in decisions of the courts and in writings. Section 103 states this requirement in the title. It refers to the difference between the subject matter sought to be patented and the prior art, meaning what was known before as described in section 102. If this difference is such that the subject matter as a whole would have been obvious at the time to a person skilled in the art, then the subject matter cannot be patented.

That provision paraphrases language which has often been used in decisions of the courts, and the section is added to the statute for uniformity and definiteness. This section should have a stabilizing effect and minimize great departures which have appeared in some cases.

The next group of sections relates to the application for a patent.

Sections 116 and 118 introduce a new element in our statutes. The existing statute is very strict in requiring that only the inventor may apply for a patent. These two sections provide for certain types of situations where it may be

impossible for the inventor himself to apply, or where, in the case of a joint invention, one of the joint applicants has been inadvertently erroneously included, or a joint inventor inadvertently excluded; the sections provide all the safeguards necessary for the inventor.

Section 119 introduces a minor change.

Sections 120 and 121 express in the statute certain matters which exist in the law today but which had not before been written into the statute, and in so doing make some minor changes in the concepts involved.

Section 122 incorporates into the title the rule of secrecy of patent applications which has existed in the Patent Office for generations.

The next chapter relates to the examination of the application in the Patent Office; rejection by the examiner, the right to reconsideration, the time within which an applicant must reply to actions, time for prosecuting application, appeal to the Board, and interferences between rival claimants for a patent. Very little has been changed in this group of sections except a minor revision in the interference section.

The next chapter relates to the review of Patent Office decisions.

The act of 1836 provided, for the first time, for the refusal of patents by officials known as examiners. The legislature was jealous of the rights of the public and provided adequate means of reviewing the action of the Patent Office. In fact, there are now two types of review. The applicant may appeal to a court of appeals especially provided, or he may file suit in the district court against the Commissioner to have his rights adjudicated by the court.

This group of sections makes no fundamental change in the various appeals and other review of Patent Office action, but has made a few changes in the procedure in various instances to correct some of the problems which have arisen, particularly in section 146. These details are mainly procedural.

Chapter 15 collects the provisions relating to plant patents, the next those relating to designs, and chapter 17 restates the recently enacted statute relating to secrecy of certain inventions.

Part III deals with the patent itself after it has been granted.

The first chapter of this part relates to correcting and amending a patent.

Sections 251 and 252 are a development of the present statute relating to what are called reissues. Under certain circumstances the patentee may obtain a new patent to replace the old one to correct certain kinds of defects that he may have discovered in the patent. These two sections together replace the present one, make a number of clarifications and a few additions in further development of the subject.

Section 253 relates to another form of correction of a patent known as the disclaimer. The patentee files a paper in the Office which is recorded. He disclaims certain things from the scope of his patent or disclaims certain claims. This subject of disclaimers, in the present law, has resulted in a great deal of confusion and uncertainty in certain situations in the law which at times are almost ridiculous. Consequently, the bill in two sections, 253 and 288, has introduced certain changes relating to disclaimers. One of these changes is that only a whole claim can be disclaimed; a patent cannot be rewritten by filing a paper in the Patent Office.

The second change relates to the situation when a patent has two or more claims and one of them may be discovered to be invalid. There is now a provision in the statute under which an invalid claim must be disclaimed without unreasonable delay in order to save the rest of the patent. What delay is unreasonable is presently quite confusing, and the present law does not, as a matter of fact, prevent the patentee from suing again on the invalid claim if he so wishes.

The bill has eliminated that requirement. It has left the situation so that if one claim of a patent is invalid, the patentee may take it out. He may sue on the remaining claims which have whatever validity they may have on their own merits. That is, one bad claim does not affect the other claims, unless they are also bad for similar reasons.

Other provisions of the bill take care at least as well as is done in the present law of the possibility of a patentee suing again after his patent has been held invalid. That can be done today and no change is made in that situation, except that certain provisions tend to deter doing such a thing.

Section 255, which permits the Patent Office to correct by a certificate a merely clerical error made by the patentee, is new.

Section 256 is a new section in the law that is correlated with section 116 and relates to a mistake in joining a person as a joint inventor. Very often two or three people make an invention together. They must apply as joint inventors. If they make a mistake in determining who are the true inventors, they do so at their peril. This provision permits a bona fide mistake in joining a person as inventor or in failing to join a person as an inventor to be corrected.

The next chapter of two sections relates to assignments and ownership.

Section 262 merely states in the statute a peculiarity relating to joint ownership.

The next two sections collect provisions now in the law referring to the Government ownership of patents, making little change except in language.

The next chapter relates to infringements of patents.

Section 271, paragraph (a), is a declaration of what constitutes infringement. There is no declaration of what constitutes infringement in the present statute. It is not actually necessary because the granting clause creates certain exclusive rights and infringement would be any violation of those rights.

Paragraphs (b), (c), and (d) relate to the subject referred to as contributory infringement. The doctrine of contributory infringement has been part of our law for about 80 years. It has been applied to enjoin those who sought to cause infringement by supplying someone else with the means and directions for infringing a patent. One who makes a special device constituting the heart of a patented machine and supplies it to others with direction (specific or implied) to complete the machine is obviously appropriating the benefit of the patented invention. It is for this reason that the doctrine of contributory infringement, which prevents appropriating another man's patented invention, has been characterized as "an expression both of law and morals." Considerable doubt and confusion as to the scope of contributory infringement has resulted from a number of decisions of the courts in recent years. The purpose of this section is to codify in statutory form principles of contributory infringement and at the same time eliminate this doubt and confusion. Paragraph (b) recites in broad terms that one who aids and abets an infringement is likewise an infringer. The principle of contributory infringement is set forth in the provisions of the next paragraph which is concerned with the usual situation in which contributory infringement arises. This latter paragraph is much more restricted than many proponents of contributory infringement believe should be the case. The sale of a component of a patented machine, etc., must constitute a material part of the invention and must be known to be especially made or especially adapted for use in the infringement before there can be contributory infringement, and likewise the sale of staple articles of commerce suitable for noninfringement use does not constitute contributory infringement. The last paragraph of this section provides that one who merely does what he is authorized to do by statute is not guilty of misuse of the patent. These paragraphs have as their main purpose clarification and stabilization.

Section 272 is a new section in the law relating to infringement, but it is of relatively little importance and it follows a paragraph in a treaty to which the United States is a party.

Beginning with 281 is a group of sections relating to remedy for infringement of a patent, the suit in the courts. The present statutes on this matter are in confusion because they were written quite some time ago and court procedure and the names of actions and so on have changed since then. So the present sections were substantially reorganized into a group of sections fitting in at this place, with some changes.

Section 281 is a declaration which serves as a preamble to the others.

Section 282 introduces a declaration of the presumption of validity of a patent, which is now a statement made by courts in decisions, but has had no expression in the statute. The defenses to a suit for infringement are stated in general terms, changing the language in the present statute, but not materially changing the substance.

The next few sections relate to injunctions, damages, attorney fees, the statute of limitations, and to marking and notice; all of which together replace present statutes on suits, with a good deal of reorganization in language to clarify the statement of the statutes.

Section 288 is the companion section to the disclaimer section, 253.

Section 292 is a criminal statute relating to falsely marking an article as being patented when it was not patented, which is now the present law. But this section revises it and makes a few changes, and also makes it an ordinary criminal action as well as an informer action as in the present statute.

Section 293 is a new section that is needed on some occasions to obtain jurisdiction over foreign patent owners that do not reside in the United States.

The revision notes, which follow and constitute a part of this report, point out in more detail the revisions made by the bill.

The committee is of the opinion that the codification of title 35 is most desirable in order that the laws relating to patents can be readily accessible and understandable. Previous codifications, such as those of titles 18 and 28, have proved their worth, and after a study of the bill H. R. 7794 the committee believes that it should be given favorable consideration.

REVISION NOTES

Notes explaining in detail the revision of the laws relating to patents are set forth in numerical order according to the section numbers of the revised title.

Title 35--Patents

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PART III. PATENTS AND PROTECTION OF PATENT RIGHTS

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CHAPTER 1. ESTABLISHMENT, OFFICERS, FUNCTIONS

Sec.

1. Establishment.

2. Seal.

3. Officers and employees.

4. Restrictions on officers and employees as to interest in patents.

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6. Duties of Commissioner.

7. Board of Appeals.

8. Library.

9. Classification of patents.

10. Certified copies of records.

11. Publications.

12. Exchange of copies of patents with foreign countries.

13. Copies of patents for public libraries.

14. Annual report to Congress.

Section 1--Section Revised

Based on title 35, U. S. C., 1946 ed., § 1 (R. S. 475 and Executive Order 4175, Mar. 17, 1925).

The word "all" is omitted from the corresponding section of the existing statute and "except as otherwise provided by law" added, since some old records are kept in the National Archives, see 44 U. S. C., 1946 ed., ch. 8A.

The word "models" has been omitted to remove emphasis on models since they are no longer generally required. They are included by the word "things."

The phrase "and to trade-mark registrations" is added. There is no enactment corresponding to this section in the trade-mark law. The original chapter of the Revised Statutes containing this section deals with the Patent Office as such in its administration of trade-marks as well as patents. This is explicitly brought out in some of the corresponding sections of the present chapter.

Changes in language are made.

Section 2--Section Revised

Based on title 35, U. S. C., 1946 ed., § 3 (R. S. 478).

"Certificates of trade-mark registrations" is added, see note under section 1. Changes in language are made and the specific date eliminated.

Section 3--Section Revised

Based on title 35, U. S. C., 1946 ed., § 2 (R. S. 476, amended (1) Feb. 15, 1916, ch. 22, § 1, 39 Stat. 8, (2) Feb. 14, 1927, ch. 139, § 1, 44 Stat. 1098, (3) April 11, 1930, ch. 132, § 1, 46 Stat. 155).

The temporary designation of the assistant commissioner as Commissioner in case of a vacancy in office is added. This will eliminate complications since present applicable general statutes (5 U. S. C., 1946 ed., § 7) permit a vacancy to be temporarily filled only for not more than 30 days.

Changes in language are made. "Assistant commissioners" is used in the second sentence (and elsewhere in the bill) as referring to all three assistants.

This entire title is subject to Reorganization Plan No. 5 of 1950 (64 Stat. 1263) which vests all functions of the Patent Office in the Secretary of Commerce and authorizes delegation by him. It has been found impractical to so word the various sections of the title, and a general provision has been inserted as the second paragraph of this section of the bill, leaving the wording of various sections of the title in terms of officers previously specified and to whom the functions presently stand delegated.

Section 4--Section Revised

Based on title 35, U. S. C., 1946 ed., § 4 (R. S. 480).

The language is revised and inability to apply for a patent, included in the original language, is made explicit.

The period of disability is increased to include one year after leaving the Office.

The further restriction, that no priority date earlier than one year after leaving the Office can be claimed, is added.

The one year period is made inapplicable to applications which may be pending when the revised title goes into effect by section 4 (g) of the bill.

Section 5--Section Revised

Based on title 35, U. S. C., 1946 ed., § 5 (R. S. 479).

Specific mention of the office of chief clerk is omitted from the corresponding section of the existing statute, the officers requiring bonds, and the amounts of the bonds are to be designated by the Commissioner.

Section 6--Section Revised

Based on title 35, U. S. C., 1946 ed., § 6 (R. S. 481 and 483).

The two sections are combined into one with some changes in language.

"And the registration of trade-marks" is added, see note under section 1.

Section 7--Section Revised

Based on title 35, U. S. C., 1946 ed., § 7 (R. S. 482, amended (1) Mar. 2, 1927, ch. 273, § 3, 44 Stat. 1335, (2) April 11, 1930, ch. 132, § 2, 46 Stat. 155, (3) Mar. 4, 1950, ch. 50, 64 Stat. 11).

Some changes in language have been made and the reference to interferences, which are no longer considered by the Board of Appeals, has been deleted. Reference to reissues is omitted in view of the general provision in section 201.

Section 8--Section Revised

Based on title 35, U. S. C., 1946 ed., § 10 (R. S. 486).

Some change in language has been made. "Purchased" is changed to "maintained" to include the existing library and keeping it up by additions. The phrase "and other" is added to include legal works. The last phrase of the corresponding section of the existing statute is omitted as unnecessary.

Section 9--Section Revised

Based on title 35, U. S. C., 1946 ed., § 6 note (June 10, 1898, ch. 430, § 1, 30 Stat. 440).

Changes in language are made.

Section 10--Section Revised

Based on title 36, U. S. C., 1946 ed., § 14 (Mar. 3, 1891, ch. 541, § 1 (part), 26 Stat. 908, 940).

Reference to other records is added. The fee for certification is omitted as it appears in the table of fees.

Section 11--Section Revised

Based on title 35, U. S. C., 1946 ed., § § 13 and 16 (R. S. 489; July 9, 1947, ch. 211, § 301 (part), 61 Stat. 299, repeated in prior and subsequent appropriation acts).

Section is amplified to list the publications of the Patent Office, based on 44 U. S. C., 1946 ed., § 283, 283a.

The second sentence of item 1 of the revised section is a provision appearing annually in appropriation acts to enable the Patent Office to maintain a small printing press to place headings on drawings before the drawings are reproduced.

Language is changed.

Section 12--Section Revised

Based on title 35, U. S. C., 1946 ed., § § 15 and 78, part (Jan. 14, 1915, 38 Stat. 1221; Feb. 18, 1922, ch. 58, § 9, proviso in, 42 Stat. 393).

The first act mentioned applies to Canada only, the second to any country; these are consolidated in one section, specific reference to one country not being necessary.

Language is changed.

Section 13--Section Revised

Based on title 35, U. S. C., 1946 ed., § 78, part (R. S. 4934, Feb. 18, 1922, ch. 58, § 9, 42 Stat. 389, 393, amended June 15, 1950, ch. 249, 64 Stat. 215).

The proviso in the schedule of fees of the existing statute is made a separate section and some changes in language are made.

Section 14--Section Revised

Based on title 35, U. S. C., 1946 ed., § 20 (R. S. 494).

Language is changed. The lists referred to in the corresponding section of existing statute, and which are omitted from the revised section, are the indexes provided for in section 11 (a) 4. The month of reporting is omitted. The report contemplated by R. S. 494 has been discontinued since 1925 under authority of 44 U. S. C., 1946 ed., § 212.

CHAPTER 2. PROCEEDINGS IN THE PATENT OFFICE

Sec.

21. Day for taking action falling on Saturday, Sunday or holiday.

22. Printing of papers filed.

23. Testimony in Patent Office cases.

24. Subpoenas, witnesses.

Section 21--Section Revised

Based on title 35, U. S. C., 1946 ed., § 21 (Mar. 2, 1927, ch. 273, § 14, 44 Stat. 1337).

"Fixed by statute" is omitted from the corresponding section of the existing statute as unnecessary. Saturday is added as a day on which action need not be taken.

Section 22--Section Revised

Based on title 35, U. S. C., 1946 ed., § 12 (R. S. 488).

Language is changed and "or typewritten" is added after "printed."

Section 23--Section Revised

Based on title 35, U. S. C., 1946 ed., § 53 (R. S. 4905).

This section is placed in part 1 since it relates to trade-mark cases in the Patent Office as well as to patent cases.

Language is changed.

Section 24--Section Revised

Based on title 35, U. S. C., 1946 ed., § § 54, 55 and 56 (R. S. 4906, amended Feb. 18, 1922, ch. 58, § 7, 42 Stat. 389, 391-2; R. S. 4907; R. S. 4908).

Three sections of the existing statute are combined with some changes in language and placed in part 1 since they apply to trademark cases in the Patent Office as well as to patent cases. Reference to a repealed statute in the first paragraph is replaced by reference to the Federal Rules of Civil Procedure and certain rules are made applicable.

CHAPTER 3. PRACTICE BEFORE PATENT OFFICE

Sec.

31. Regulations for agents and attorneys.

32. Suspension or exclusion from practice.

33. Unauthorized representation as practitioner.

Section 31--Section Revised

Based on title 35, U. S. C., 1946 ed., § 11 (R. S. 487, amended Feb. 18, 1922, ch. 58, § 3, 42 Stat. 390).

The present statute is divided into two sections, 31 and 32.

Changes in language are made.

Section 32--Section Revised

Based on title 35, U. S. C., 1946 ed., § 11 (R. S. 487 amended Feb. 18, 1922, ch. 58, § 3, 42 Stat. 390).

See note under section 31.

Section 33--Section Revised

Based on title 35, U. S. C., 1946 ed., § 11a (May 9, 1938, ch. 188, 52 Stat. 342).

This is a criminal statute. The language has been considerably simplified and the upper limit of the penalty is increased.

CHAPTER 4. PATENT FEES

Sec.

41. Patent fees.

42. Payment of patent fees; return of excess amounts.

Section 41--Section Revised

Based on title 35, U. S. C., 1946 ed., § 78 (R. S. 4934, amended (1) May 27, 1908, ch. 200, § 1 (part) 35 Stat. 317, 343; (2) June 25, 1910, ch. 414, § 2, 35 Stat. 843; (3) Feb. 18, 1922, ch. 58, § 9, 42 Stat. 389, 393; (4) Feb. 14, 1927, ch. 139, § 2, 44 Stat. 1098, 1099; (5) Mar. 2, 1927, ch. 273, § 13, 44 Stat. 1335, 1337; (6) April 11, 1930, ch. 132, § 3, 46 Stat. 155; (7) June 30, 1932, ch. 314, § § 308, 309, 47 Stat. 382, 410; (8) Aug. 9, 1939, ch. 619, § 3, 53 Stat. 1293; July 5, 1946, ch. 541, § 301 (part), 60 Stat. 446, 471.

The items in the schedule of fees are rearranged in a few instances and are numbered for convenient reference.

The obsolete fee for appeal from the examiners of interferences to the Board of Appeals is omitted.

The fee for appeal to the Board of Appeals is changed from $ 15 to $ 25.

Two provisos in the corresponding section of the existing statute have been made separate sections, see sections 12 and 13.

The fee for a certificate is changed from 50 cents to $ 1 to correspond to the same fee in the trade-mark statute.

A new item (8) is added to go with section 205.

An omnibus item to take care of miscellaneous minor fees is added; in view of this, two items in the present schedule are omitted.

The fee for reissue applications is changed slightly.

Section 42--Section Revised

Based on title 35, U. S. C., 1946 ed., § 79 (Mar. 6, 1920, ch. 94, § 1 (part), 41 Stat. 503, 512).

Language has been changed.

PART II. PATENTABILITY OF INVENTIONS AND GRANT OF PATENTS

Chapter _____Sec.

10.. PATENTABILITY OF INVENTIONS _____ 100

11.. APPLICATION FOR PATENT _____ 111

12.. EXAMINATION OF APPLICATIONS _____ 131

13.. REVIEW OF PATENT OFFICE DECISIONS _____ 141

14.. ISSUE OF PATENT _____ 151

15.. PLANT PATENTS _____ 161

16.. DESIGNS _____ 171

17.. SECRECY OF CERTAIN INVENTIONS AND FILING APPLICATIONS ABROAD _____ 181

CHAPTER 10. PATENTABILITY OF INVENTIONS

Sec.

100. Definitions.

101. Inventions patentable.

102. Conditions for patentability; novelty and loss of right to patent.

103. Conditions for patentability; nonobvious subject matter.

104. Invention made abroad.

Section 100--New Section

Paragraph (a) is added only to avoid repetition of the phrase "invention or discovery" and its derivatives throughout the revised title. The present statutes use the phrase "invention or discovery" and derivatives.

Paragraph (b) is noted under section 101.

Paragraphs (c) and (d) are added to avoid the use of long expressions in various parts of the revised title.

Section 101--Section Revised

Based on title 35, U. S. C., 1946 ed., § 31 (R. S. 4886, amended (1) Mar. 3, 1897, ch. 391, § 1, 29 Stat. 692, (2) May 23, 1930, ch. 312, § 1, 46 Stat. 376, (3) Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212).

The corresponding section of existing statute is split into two sections, section 101 relating to the subject matter for which patents may be obtained, and section 102 defining statutory novelty and stating other conditions for patentability.

Section 101 follows the wording of the existing statute as to the subject matter for patents, except that reference to plant patents has been omitted for incorporation in section 301 and the word "art" has been replaced by "process", which is defined in section 100. The word "art" in the corresponding section of the existing statute has a different meaning than the same word as used in other places in the statute; it has been interpreted by the courts as being practically synonymous with process or method. "Process" has been used as its meaning is more readily grasped than "art" as interpreted, and the definition in section 100 (b) makes it clear that "process or method" is meant. The remainder of the definition clarifies the status of processes or methods which involve merely the new use of a known process, machine, manufacture, composition of matter, or material; they are processes or methods under the statute and may be patented provided the conditions for patentability are satisfied.

Section 102--Section Revised

Paragraphs (a), (b), and (c) are based on 35 U. S. C., 1946 ed., § 31 (R. S. 4886, amended (1) Mar. 3, 1897, ch. 391, § 1, 29 Stat. 692, (2) May 23, 1930, ch. 312, § 1, 46 Stat. 376, (3) Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212).

No change is made in these paragraphs other than that due to division into lettered paragraphs. The interpretation by the courts of paragraph (a) as being more restricted than the actual language would suggest (for example, "known" has been held to mean "publicly known") is recognized but no change in the language is made at this time. Paragraph (a) together with section 104 contains the substance of title 35 U. S. C., 1946 ed., § 72 (R. S. 4923).

Paragraph (d) is based on 35 U. S. C., 1946 ed., § 32, first paragraph (R. S. 4887 (first paragraph), amended (1) Mar. 3, 1897, ch. 391, § 3, 29 Stat. 692, 693, (2) Mar. 3, 1903, ch. 1019, § 1, 32 Stat. 1225, 1226, (3) June 19, 1936, ch. 594, 49 Stat. 1529).

The section has been changed so that the prior foreign patent is not a bar unless it was granted before the filing of the application in the United States.

Paragraph (e) is new and enacts the rule of *Milburn v. Davis-Bournonville,* 270 U. S. 390, by reason of which a United States patent disclosing an invention dates from the date of filing the application for the purpose of anticipating a subsequent inventor.

Paragraph (f) indicates the necessity for the inventor as the party applying for patent. Subsequent sections permit certain persons to apply in place of the inventor under special circumstances.

Paragraph (g) is derived from title 35, U. S. C., 1946 ed., § 69 (R. S. 4920, amended (1) Mar. 3, 1897, ch. 391, § 2, 29 Stat. 692, (2) Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212), the second defense recited in this section. This paragraph retains the present rules of law governing the determination of priority of invention.

Language relating specifically to designs is omitted for inclusion in subsequent sections.

Section 103--New Section

There is no provision corresponding to the first sentence explicity stated in the present statutes, but the refusal of patents by the Patent Office, and the holding of patents invalid by the courts, on the ground of lack of invention or lack of patentable novelty has been followed since at least as early as 1850. This paragraph is added with the view that an explicit statement in the statute may have some stabilizing effect, and also to serve as a basis for the addition at a later time of some criteria which may be worked out.

The second sentence states that patentability as to this requirement is not to be negatived by the manner in which the invention was made, that is, it is immaterial whether it resulted from long toil and experimentation or from a flash of genius.

Section 104--Section Revised

Based on title 35, U. S. C., 1946 ed., § 109 (Aug. 8, 1946, ch. 910, 60 Stat. 943).

Language has been changed and the last sentence has been broadened to refer to persons serving in connection with operations by or on behalf of the United States, instead of solely in connection with the prosecution of the war.

CHAPTER 11. APPLICATION FOR PATENT

Sec.

111. Application for patent.

112. Specification.

113. Drawings.

114. Models, specimens.

115. Oath of applicant.

116. Joint inventors.

117. Death or incapacity of inventor.

118. Filing by other than inventor.

119. Benefit of earlier filing date in foreign country; right of priority.

120. Benefit of earlier filing date in the United States.

121. Divisional applications.

122. Confidential status of applications.

Section 111--Section Revised

Based on title 35, U. S. C., 1946 ed., § 33 (R. S. 4888, amended (1) Mar. 3, 1915, ch. 94, § 1, 38 Stat. 958; (2) May 23, 1930, ch. 312, § 2, 46 Stat. 376).

The corresponding section of existing statute is divided into an introductory section relating to the application generally (this section) and a section on the specification (sec. 112).

The parts of the application are specified and the requirement for signature is placed in this general section so as to insure that only one signature will suffice.

Section 112--Section Revised

Based on title 35, U. S. C., 1946 ed., § 33 (R. S. 4888, amended (1) Mar. 3, 1915, ch. 94, § 1, 38 Stat. 958; (2) May 23, 1930, ch. 312, § 2, 46 Stat. 376).

The sentence relating to signature of the specification is omitted in view of the general requirement for a signature in section 111.

The last sentence is omitted for inclusion in the chapter relating to plant patents.

The clause relating to machines is omitted as unnecessary and the requirement for disclosing the best mode of carrying out the invention is stated as generally applicable to all types of invention (derived from title 35, U. S. C., 1946 ed., § 69, first defense).

The clause relating to the claim is made a separate paragraph to emphasize the distinction between the description and the claim or definition, and the language is modified.

A new paragraph relating to functional claims is added.

Section 113--Section Revised

Based on title 35, U. S. C., 1946 ed., § 34, part (R. S. 4889, amended Mar. 3, 1915, ch. 94, § 2, 38 Stat. 958).

The requirement for signature in the corresponding section of existing statute is omitted; regulations of the Patent Office can take care of any substitute. A redundant clause is omitted.

Section 114--Section Revised

Based on title 35, U. S. C., 1946 ed., § 34, part (R. S. 4890 and 4891).

The change in language in the second paragraph broadens the requirement for specimens.

Section 115--Section Revised

Based on title 35, U. S. C., 1946 ed., § 35 (R. S. 4892, amended (1) Mar. 3, 1903, ch. 1019, § 2, 32 Stat. 1225, 1226, (2) May 23, 1930, ch. 312, § 3, 46 Stat. 376).

The expression at the end of the second sentence is added to avoid application of the District of Columbia law to oaths taken outside the District.

Changes in language are made.

Section 116--New Section

The first paragraph is implied in the present statutes, and the part of the last paragraph relating to omission of an erroneously joined inventor is in the Patent Office rules. The remainder is new and provides for the correction of a mistake in erroneously joining a person as inventor, and for filing an application when one of several joint inventors cannot be found. This section is ancillary to section 256.

Section 117--Section Revised

Based on title 35, U. S. C., 1946 ed., § 46 (R. S. 4896, amended (1) Feb. 28, 1899, ch. 227, 30 Stat. 915, (2) Mar. 3, 1903, ch. 1019, § 3, 32 Stat. 1225, 1226, (3) May 23, 1908, ch. 188, 35 Stat. 245).

The language has been considerably simplified.

Section 118--New Section

This section is new and provides for the filing of an application by another on behalf of the inventor in certain special hardship situations.

Section 119--Section Revised

Based on title 35, U. S. C., 1946 ed., § 32, second paragraph (R. S. 4887, second paragraph, amended (1) Mar. 3, 1903, ch. 1019, § 1, 32 Stat. 1225, 1226, (2) June 19, 1936, ch. 594, 49 Stat. 1529, (3) Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212).

The first paragraph is the same as the present law with changes in language. The references to designs have been removed for inclusion in another section and the opening clause has been modified to accord with actual practice and the requirements of the International Convention for the Protection of Industrial Property.

The second paragraph is new, making an additional procedural requirement for obtaining the right of priority. Copies of the foreign papers on which the right of priority is based are required so that the record of the United States patent will be complete in this country.

Section 120--New Section

This section represents present law not expressed in the statute, except for the added requirement that the first application must be specifically mentioned in the second.

Section 121--New Section

This section enacts as law existing practice with respect to division, at the same time introducing a number of changes. Division is made discretionary with the Commissioner. The requirements of section 120 are made applicable and neither of the resulting patents can be held invalid over the other merely because of their being divided in several patents. In some cases a divisional application may be filed by the assignee.

Section 122--New Section

This section enacts the Patent Office rule of secrecy of applications.

CHAPTER 12. EXAMINATION OF APPLICATION

Sec.

131. Examination of application.

132. Notice of rejection; reexamination.

133. Time for prosecuting application.

134. Appeal to the Board of Appeals.

135. Interferences.

Section 131--Section Revised

Based on title 35, U. S. C., 1946 ed., § 36 (R. S. 4893).

The first part is revised in language and amplified. The phrase "and that the invention is sufficiently useful and important" is omitted as unnecessary, the requirements for patentability being stated in sections 101, 102 and 103.

Section 132--Section Revised

Based on title 35, U. S. C., 1946 ed., § 51 (R. S. 4903, amended Aug. 5, 1939, ch. 452, § 1, 53 Stat. 1213).

The first paragraph of the corresponding section of existing statute is revised in language and amplified to incorporate present practice; the second paragraph of the existing statute is placed in section 135.

The last sentence relating to new matter is added but represents no departure from present practice.

Section 133--Section Revised

Based on title 35, U. S. C., 1946 ed., § 37 (R. S. 4894, amended (1) Mar. 3, 1897, ch. 391, § 4, 29 Stat. 692, 693, (2) July 6, 1916, ch. 225, § 1, 39 Stat. 345, 347-8, (3) Mar. 2, 1927, ch. 273, § 1, 44 Stat. 1335, (4) Aug. 7, 1939, ch. 568, 53 Stat. 1264).

The opening clause of the corresponding section of existing statute is omitted as having no present day meaning or value and the last two sentences are omitted for inclusion in section 267. The notice is stated as given or mailed. Language is revised.

Section 134--Section Revised

Based on title 35, U. S. C., 1946 ed., § 57 (R. S. 4909 amended (1) Mar. 2, 1927, ch. 273, § 5, 44 Stat. 1335, 1336, (2) Aug. 5, 1939, ch. 451, § 2, 53 Stat. 1212).

Reference to reissues is omitted in view of the general provision in section 251. Minor changes in language are made.

Section 135--Section Revised

The first paragraph is based on title 35, U. S. C., 1946 ed., § 52 (R. S. 4904 amended (1) Mar. 2, 1927, ch. 273, § 4, 44 Stat. 1335, 1336, (2) Aug. 5, 1939, ch. 451, § 1, 53 Stat. 1212).

The first paragraph states the existing corresponding statute with a few changes in language. An explicit statement that the Office decision on priority constitutes a final refusal by the Office of the claims involved, is added. The last sentence is new and provides that judgment adverse to a patentee constitutes cancellation of the claims of the patent involved after the judgment has become final, the patentee has a right of appeal (sec. 141) and is given a right of review by civil action (sec. 146).

The second paragraph is based on title 35, U. S. C., 1946 ed., § 51, (R. S. 4903, amended Aug. 5, 1939, ch. 452, § 1, 53 Stat. 1213). Changes in language are made.

CHAPTER 13. REVIEW OF PATENT OFFICE DECISIONS

Sec.

141. Appeal to Court of Customs and Patent Appeals.

142. Notice of appeal.

143. Proceedings on appeal.

144. Decision on appeal.

145. Civil action to obtain patent.

146. Civil action in case of interference.

Section 141--Section Revised

Based on title 35, U. S. C., 1946 ed., § 59a (R. S. 4911, amended (1) Mar. 2, 1927, ch. 273, § 8, 44 Stat. 1336, (2) Mar. 2, 1929, ch. 4888, § 2a, 45 Stat. 1476, (3) Aug. 5, 1939, ch. 451, § 3, 53 Stat. 1212).

Changes in language are made.

Section 142--Section Revised

Based on title 35, U. S. C., 1946 ed., § 60 (R. S. 4912 amended (1) Mar. 2, 1927, ch. 273, § 9, 44 Stat. 1336 (2) Mar. 2, 1929, ch. 4888, § 2 (b), 45 Stat. 1476).

Changes in language are made.

Section 143--Section Revised

Based on title 35, U. S. C., 1946 ed., § 61 (R. S. 4913, amended Mar. 2, 1927, ch. 273, § 10, 44 Stat. 1336).

Language is changed. The requirement that the Commissioner notify the parties is omitted and a requirement that the court notify the parties is added. The statement relating to filing the papers and testimony is made more explicit.

Section 144--Section Revised

Based on title 35, U. S. C., 1946 ed., § 62 (R. S. 4914).

Language is changed and the last sentence of the corresponding section of existing statute omitted as superfluous; such a sentence does not appear in the present civil action section, 35 U. S. C. 63 and in either case the validity of the patent may be questioned.

Section 145--Section Revised

Based on title 35, U. S. C., 1946 ed., § 63 (R. S. 4915, amended (1) Mar. 2, 1927, ch. 273, § 11, 44 Stat. 1336, (2) Mar. 2, 1929, ch. 488, § 2 (b), 45 Stat. 1476, (3) Aug. 5, 1939, ch. 451, § 4, 53 Stat. 1212).

Bill in equity is changed to civil action and the section is restricted to exclude interferences which are covered by the next section. The time for filing the action is changed to the same as the time for appeal. The requirement for the applicant to file a copy of the decision in the Patent Office is omitted. Language is changed.

Section 146--Section Revised

The first paragraph and parts of the second paragraph are based on title 35, U. S. C., 1946 ed., § 63 (R. S. 4915, amended (1) Mar. 2, 1927, ch. 273, § 11, 44 Stat. 1336, (2) Mar. 2, 1929, ch. 488, § 2 (b), 45 Stat. 1476, (3) Aug. 5, 1939, ch. 451, § 4, 53 Stat. 1212), limited to interferences and making some changes. The action is not restricted to applicants, but a patentee may also bring the action. The time for bringing the action is made the same as for appeals.

In the second paragraph the first sentence is new and eliminates difficulties arising from unrecorded interests.

The second sentence is based on 35 U. S. C., 1946 ed., § 72a (Mar. 3, 1927, ch. 364, 44 Stat. 1394, reenacted Oct. 31, 1951, ch. 655, § 53a, 65 Stat. 728) with changes in language.

The fourth sentence is new and prevents such suits from being filed against the Commissioner as a defendant; however, the Commissioner has the right to intervene.

Language is changed.

CHAPTER 14. ISSUE OF PATENT

Sec.

151. Time of issue of patent.

152. Issue of patent to assignee.

153. How issued.

154. Contents and term of patent.

Section 151--Section Revised

Based on title 35, U. S. C., 1946 ed., § 41 (R. S. 4885, amended (1) May 23, 1908, ch. 189, 35 Stat. 246, (2) Aug. 9, 1939, § 2, ch. 619, 53 Stat. 1293).

Language is changed.

Section 152--Section Revised

Based on title 35, U. S. C., 1946 ed., § 44 (R. S. 4895).

Language is changed and the reference to reissues is omitted in view of the general provision in section 251.

Section 153--Section Revised

Based on title 35, U. S. C., 1946 ed., § 39 (R. S. 4883, amended (1) Feb. 18, 1888, ch. 15, 25 Stat. 40, (2) April 11, 1903, ch. 417, 32 Stat. 95, (3) Feb. 18, 1922, ch. 58, § 5, 42 Stat. 391).

The phrases referring to the attesting officers and to the recording of the patents are broadened.

Section 154--Section Revised

Based on title 35, U. S. C., 1946 ed., § 40 (R. S. 4884, amended May 23, 1930, ch. 312, § 1, 46 Stat. 376).

The reference to plants is omitted for inclusion in another section and the reference to the title is shortened since the title is of no legal significance.

The wording of the granting clause is changed to "the right to exclude others from making, using, or selling", following language used by the Supreme Court, to render the meaning clearer.

"United States" is defined in section 100.

CHAPTER 15. PLANT PATENTS

Sec.

161. Patents for plants.

162. Description, claim.

163. Grant.

164. Assistance of Department of Agriculture.

Section 161--Section Revised

Based on title 35, U. S. C., 1946 ed., § 31, part (R. S. 4886, amended (1) Mar. 3, 1897, ch. 391, § 1, 29 Stat. 692, (2) May 23, 1930, ch. 312, § 1, 46 Stat. 376, (3) Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212).

The provision relating to plants in the corresponding section of existing statute is made a separate section.

Section 162--Section Revised

Based on title 35, U. S. C., 1946 ed., § 33, part (R. S. 4888, amended (1) Mar. 3, 1915, ch. 94, § 1, 38 Stat. 958, (2) May 23, 1930, ch. 312, § 2, 46 Stat. 376).

The first paragraph is the provision in R. S. 4888 (see section 112). The second paragraph is not in the statute but represents the actual practice.

Section 163--Section Revised

Based on title 35, U. S. C., 1946 ed., § 40, part (R. S. 4884, amended May 23, 1930, ch. 312, § 1, 46 Stat. 376).

This provision is from R. S. 4884 (see section 154) amended in language.

Section 164--Section Revised

Based on title 35, U. S. C., 1946 ed., § 56a (May 23, 1930, ch. 312, § 4, 46 Stat. 376).

Language is changed.

CHAPTER 16. DESIGNS

Sec.

171. Patents for designs.

172. Right of priority.

173. Term of design patent.

Section 171--Section Revised

Based on title 35, U. S. C., 1946 ed., § 73 (R. S. 4929, amended (1) May 9, 1902, ch. 783, 32 Stat. 193, (2) Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212; R. S. 4933).

The list of conditions specified in the corresponding section of existing statute is omitted as unnecessary in view of the general inclusion of all conditions applying to other patents. Language is changed.

Section 172--Section Revised

Based on title 35, U. S. C., 1946 ed., § 32, part (R. S. 4887, amended (1) Mar. 3, 1903, ch. 1019, § 1, 32 Stat. 1225, 1226, (2) June 19, 1936, ch. 594, 49 Stat. 1529, (3) Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212).

This provision is taken from R. S. 4887 (see section 119) and made a separate section.

Section 173--Section Revised

Based on title 35, U. S. C., 1946 ed., § 77 (R. S. 4931).

Language is changed slightly.

CHAPTER 17. SECRECY OF CERTAIN INVENTIONS AND FILING APPLICATIONS IN FOREIGN COUNTRY

Sec.

181. Secrecy of certain inventions and withholding of patent.

182. Abandonment of invention for unauthorized disclosure.

183. Right of compensation.

184. Filing of application in foreign country.

185. Patent barred for filing without license.

186. Penalty.

187. Nonapplicability to certain persons.

188. Rules and regulations, delegation of power.

Section 181--Section Revised

Based on title 35, U. S. C., 1946 ed., § 151 (Feb. 1, 1952, ch. 4, § 1, 66 Stat. 3, 4).

Language is changed.

Section 182--Section Revised

Based on title 35, U. S. C., 1946 ed., § 152 (Feb. 1, 1952, ch. 4, § 2, 66 Stat. 4).

Language is changed.

Section 183--Section Revised

Based on title 35, U. S. C., 1946 ed., § 153 (Feb. 1, 1952, ch. 4, § 3, 66 Stat. 4, 5).

Language is changed.

Section 184--Section Revised

Based on title 35, U. S. C., 1946 ed., § 154 (Feb. 1, 1952, ch. 4, § 4, 66 Stat. 5).

Language is changed.

Section 185--Section Revised

Based on title 35, U. S. C., 1946 ed., § 155 (Feb. 1, 1952, ch. 4, § 5, 66 Stat. 5).

Language is changed.

Section 186--Section Revised

Based on title 35, U. S. C., 1946 ed., § 156 (Feb. 1, 1952, ch. 4, § 6, 66 Stat. 5, 6).

Language is changed.

Section 187--Section Revised

Based on title 35, U. S. C., 1946 ed., § 157 (Feb. 1, 1952, ch. 4, § 7, 66 Stat. 6).

Language is changed.

Section 188--Section Revised

Based on title 35, U. S. C., 1946 ed., § 158 (Feb. 1, 1952, ch. 4, § 8, 66 Stat. 6).

Language is changed.

PART III. PATENTS AND PROTECTION OF PATENT RIGHTS

Chapter _____Sec.

25. AMENDMENT AND CORRECTION OF PATENTS _____ 251

26. OWNERSHIP AND ASSIGNMENT _____ 261

27. GOVERNMENT INTERESTS IN PATENTS _____ 266

28. INFRINGEMENT OF PATENTS _____ 271

29. REMEDIES FOR INFRINGEMENT OF PATENT AND OTHER ACTIONS _____ 281

CHAPTER 25. AMENDMENT AND CORRECTION OF PATENTS

Sec.

251. Reissue of defective patents.

252. Effect of reissue.

253. Disclaimer.

254. Certificate of correction of Patent Office mistake.

255. Certificate of correction of applicant's mistake.

256. Misjoinder of invention.

Section 251--Section Revised

Based on title 35, U. S. C., 1946 ed., § 64 (R. S. 4916, amended May 24, 1928, ch. 730, 45 Stat. 732.)

The sentences of the corresponding section of existing statute are rearranged and divided into two sections with some changes in language. The clause at the end of the present statute is omitted as obsolete.

The third paragraph incorporates by reference the requirements of other applications, and adds a new provision relating to application for reissue being made in certain cases by the assignee.

A two year period of limitations on applying for broadened reissues is added, codifying the present rule of decision with a fixed period.

Section 252--Section Revised

Based on title 35, U. S. C., 1946 ed., § 64 (R. S. 4916, amended May 24, 1928, ch. 730, 45 Stat. 732.)

The first paragraph follows the present section with some rearrangement in language. The second paragraph adds new provisions for the protection of intervening rights, the court is given discretion to protect legitimate activities which would be adversely affected by the grant of a reissue and things made before the grant of the reissue are not subject to the reissue unless a claim of the original patent which is repeated in the reissue is infringed.

Section 253--Section Revised

Based on title 35, U. S. C., 1946 ed., § 65 (R. S. 4917).

Language is changed and substantive changes are introduced; (1) only a claim as a whole may be disclaimed, and (2) the provision regarding delay is omitted. See preliminary general description of bill.

See section 288.

The second paragraph is new and provides for the disclaiming or dedication of an entire patent, or any terminal part of the term, for example, a patentee may disclaim the last three years of the term of his patent.

Section 254--Section Revised

Based on title 35, U. S. C., 1946 ed., § 88 (Mar. 4, 1925, ch. 535, § 1, 43 Stat. 1268).

The last sentence of the present section is omitted as obsolete. A sentence is added similar to a provision in the corresponding section in the trade-mark law, 15 U. S. C., 1946 ed., § 1057 (f), and provides that the Commissioner may issue a corrected patent instead of a certificate of correction.

Section 255--New Section

This section providing for the correction of minor clerical errors made by the applicant, is new and follows a similar provision in the trade-mark law, 15 U. S. C., 1946 ed., § 1057 (g).

Section 256--New Section

This section is new and is companion to section 116.

The first two paragraphs provide for the correction of the inadvertent joining or nonjoining of a person as a joint inventor. The third paragraph provides that a patent shall not be invalid for such cause, and also provides that a court may order correction of a patent; the two sentences of this paragraph are independent.

CHAPTER 26. OWNERSHIP AND ASSIGNMENT

Sec.

261. Ownership; assignment.

262. Joint owners.

Section 261--Section Revised

Based on title 35, U. S. C., 1946 ed., § 47 (R. S. 4898, amended (1) Mar. 3, 1897, ch. 391, § 5, 29 Stat. 93, (2) Feb. 18, 1922, ch. 58, § 6, 42 Stat. 391, (3) Aug. 18, 1941, ch. 370, 55 Stat. 634).

The first paragraph is new but is declaratory only. The second paragraph is the same as in the corresponding section of existing statute. The third paragraph is from the existing statute, a specific reference to another statute is omitted. The fourth paragraph is the same as the existing statute but language has been changed.

Section 262--New Section

This section states a condition in existing law not expressed in the existing statutes.

CHAPTER 27. GOVERNMENT INTERESTS IN PATENTS

Sec.

266. Issue of patents without fees to Government employees.

267. Time for taking action in Government applications.

Section 266--Section Revised

Based on title 35, U. S. C., 1946 ed., § 45 (Mar. 3, 1883, ch. 143, 22 Stat. 625, amended April 30, 1928, ch. 460, 45 Stat. 467).

Changes in language are made. The omission of the specific reference to 35 U. S. C., 1946 ed., § 31, (R. S. 4886) broadens the section so as to include design patents.

Section 267--Section Revised

Based on title 35, U. S. C., 1946 ed., § 37 (R. S. 4894, amended (1) Mar. 3, 1897, ch. 391, § 4, 29 Stat. 692, 693, (2) July 6, 1916, ch. 225, § 1, 39 Stat. 345, 347-8, (3) Mar. 2, 1927, ch. 273, § 1, 44 Stat. 1335, (4) Aug. 7, 1939, ch. 568, 53 Stat. 1264).

This provision, which appears as the last two sentences of the corresponding section of the present statute (see note to section 133) is made a separate section and rewritten in simpler form.

CHAPTER 28. INFRINGEMENT OF PATENTS

Sec.

271. Infringement of patent.

272. Temporary presence in the United States.

Section 271--New Section

The first paragraph of this section is declaratory only, defining infringement.

Paragraphs (b) and (c) define and limit contributory infringement of a patent and paragraph (d) is ancillary to these paragraphs, see preliminary general description of bill. One who actively induces infringement as by aiding and abetting the same is liable as an infringer, and so is one who sells a component part of a patented invention or material or apparatus for use therein knowing the same to be especially made or especially adapted for use in the infringement of the patent except in the case of a staple article or commodity of commerce having other uses. A patentee is not deemed to have misused his patent solely by reason of doing anything authorized by the section.

Section 272--New Section

This section follows the requirement of the International Convention for the Protection of Industrial Property, to which the United States is a party, and also codifies the holding of the Supreme Court that use of a patented invention on board a foreign ship does not infringe a patent.

CHAPTER 29. REMEDIES FOR INFRINGEMENT OF PATENT, AND OTHER ACTIONS

Sec.

281. Remedy for infringement of patent.

282. Prosecution of validity; defenses.

283. Injunction.

284. Damages.

285. Attorney fees.

286. Time limitation on damages.

287. Limitation on damages; marking and notice.

288. Action for infringement of a patent containing an invalid claim.

289. Additional remedy for infringement of design patent.

290. Notice of patent suits.

291. Interfering patents.

292. False marking.

293. Nonresident patentee, service and notice.

Section 281--Section Revised

Based on title 35, U. S. C., 1946 ed., § § 67 and 70, part (R. S. 4919; R. S. 4921, amended (1) Mar. 3, 1897, ch. 391, § 6, 29 Stat. 694, (2) Feb. 18, 1922, ch. 58, § 8, 42 Stat. 392, (3) Aug. 1, 1946, ch. 726, § 1, 60 Stat. 778).

The corresponding two sections of existing law are divided among sections 281, 283, 284, 285, 286 and 289 with some changes in language. Section 281 serves as an introduction or preamble to the following sections, the modern term civil action is used, there would be, of course, a right to a jury trial when no injunction is sought.

Section 282--Section Revised

Derived from title 35, U. S. C., 1946 ed., § 69, (R. S. 4920, amended (1) Mar. 3, 1897, ch. 391, § 2, 29 Stat. 692, (2) Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212).

The first paragraph declares the existing presumption of validity of patents.

The five defenses named in R. S. 4920 are omitted and replaced by a broader paragraph specifying defenses in general terms.

The third paragraph, relating to notice of prior patents, publications and uses, is based on part of the last paragraph of R. S. 4920 which was superseded by the Federal Rules of Civil Procedure but which is reinstated with modifications.

Section 283--Section Revised

Based on title 35, U. S. C., 1946 ed., § 70, part (R. S. 4921, amended (1) Mar. 3, 1897, ch. 391, § 6, 29 Stat. 694, (2) Feb. 18, 1922, ch. 58, § 8, 42 Stat. 392, (3) Aug. 1, 1946, ch. 726, § 1, 60 Stat. 778).

This section is the same as the provision which opens R. S. 4921 with minor changes in language.

Section 284--Section Revised

Based on title 35, U. S. C., 1946 ed., § § 67 and 70, part (R. S. 4919; R. S. 4921, amended (1) Mar. 3, 1897, ch. 391, § 6, 29 Stat. 694, (2) Feb. 18, 1922, ch. 58, § 8, 42 Stat. 392, (3) Aug. 1, 1946, ch. 726, § 1, 60 Stat. 778).

This section consolidates the provisions relating to damages in R. S. 4919 and 4921, with some changes in language.

Section 285--Section Revised

Based on title 35, U. S. C., 1946 ed., § 70, part (R. S. 4921, amended (1) Mar. 3, 1897, ch. 391, § 6, 29 Stat. 694, (2) Feb. 18, 1922, ch. 58, § 8, 42 Stat. 392, (3) Aug. 1, 1946, ch. 726, § 1, 60 Stat. 778).

This section is substantially the same as the corresponding provision in R. S. 4921; "in exceptional cases" has been added as expressing the intention of the present statute as shown by its legislative history and as interpreted by the courts.

Section 286--Section Revised

Based on title 35, U. S. C., 1946 ed., § 70, part (R. S. 4921, amended (1) Mar. 3, 1897, ch. 391, § 6, 29 Stat. 694, (2) Feb. 18, 1922, ch. 58, § 8, 42 Stat. 392, (3) Aug. 1, 1946, ch. 726, § 1, 60 Stat. 778).

The first paragraph is the same as the provision in R. S. 4921 with minor changes in language, with the added provision relating to the date for counterclaims for infringement.

The second paragraph is new and relates to extending the period of limitations with respect to suits in the Court of Claims in certain instances when administrative consideration is pending.

Section 287--Section Revised

Based on title 35, U. S. C., 1946 ed., § 49 (R. S.. 4900, amended Feb. 7, 1927, ch. 67, 44 Stat. 1058).

Language is changed. The proviso in the corresponding section of existing statute is omitted as being temporary in character and now obsolete.

Section 288--Section Revised

Based on title 35, U. S. C., 1946 ed., § 71 (R. S. 4922).

The necessity for a disclaimer to recover on valid claims is eliminated. See section 253.

Language is changed.

Section 289--Section Revised

Based on title 35, U. S. C., 1946 ed., § § 74, 75 (Feb. 4, 1887, ch. 105, § § 1, 2, 24 Stat. 387, 388).

Language is changed.

Section 290--Section Revised

Based on title 35, U. S. C., 1946 ed., § 70, part (R. S. 4921, amended (1) Mar. 3, 1897, ch. 391, § 6, 29 Stat. 694, (2) Feb. 18, 1922, ch. 58, § 8, 42 Stat. 392, (3) Aug. 1, 1946, ch. 726, § 1, 60 Stat. 778).

This is the last sentence of R. S. 4921, third paragraph, with minor changes in language.

Section 291--Section Revised

Based on title 35, U. S. C., 1946 ed., § 66 (R. S. 4918, amended Mar. 2, 1927, ch. 273, § 12, 44 Stat. 1337).

Language is changed.

Section 292--Section Revised

Based on title 35, U. S. C., 1946 ed., § 50 (R. S. 4901).

This is a criminal provision. The first two paragraphs of the corresponding section of existing statute are consolidated, a new paragraph relating to false marking of "patent applied for" is added, and false advertising is included in all the offenses. The minimum fine, which has been interpreted by the courts as a maximum, is replaced by a higher maximum. The informer action is included as additional to an ordinary criminal action.

Section 293--New Section

This section provides for service on non-resident patentees.

CHANGES IN EXISTING LAW

1. TEXT OF STATUTES FOR REPEAL

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, the text of the statutes or parts thereof which are proposed to be repealed by the bill are set out below.

The Revised Statutes, set out first, are in numerical order according to section number. The Statutes at Large which specifically amend a section of the Revised Statutes follow the particular Revised Statute section. The Statutes at Large which do not specifically amend any particular section of the Revised Statutes follow the Revised Statutes in chronological order.

The citation in the left-hand column of the headings identifies the text of the Revised Statutes or Statutes at Large which immediately follows that reference; that in the right-hand column refers to the section of proposed title 35, "Patents", of the United States Code, where similar subject matter will be found. The word "omitted" in the right-hand column of a heading indicates that the particular text of such statute was not incorporated in proposed title 35 because it was obsolete, executed, covered by other law, or superseded by later law. The specific reasons for omitting and repealing such statutes are given in the table of omitted laws elsewhere in this report.

REVISED STATUTES

R. S. 475 _____ T. 35, § 1

There shall be in the Department of the Interior an office known as the Patent-Office, where all records, books, models, drawings, specifications, and other papers and things pertaining to patents shall be safely kept and preserved.

R. S. 476 _____ T. 35, § 3

There shall be in the Patent-Office a Commissioner of Patents, one Assistant Commissioner, and three examiners-in-chief, who shall be appointed by the President, by and with the advice and consent of the Senate. All other officers, clerks, and employees authorized by law for the Office shall be appointed by the Secretary of the Interior upon the nomination of the Commissioner of Patents.

As amended Feb. 15, 1916, ch. 22, § 1, 39 Stat. 8.

That section four hundred and seventy-six of the Revised Statutes be, and the same is hereby, amended to read as follows:

"SEC. 476. There shall be in the Patent Office a Commissioner of Patents, one first assistant commissioner, one assistant commissioner, and five examiners in chief, who shall be appointed by the President, by and with the advice and consent of the Senate. The first assistant commissioner and the assistant commissioner shall perform such duties pertaining to the office of commissioner as may be assigned to them, respectively, from time to time by the Commissioner of Patents. All other officers, clerks, and employees authorized by law for the office shall be appointed by the Secretary of the Interior upon the nomination of the Commissioner of Patents, in accordance with existing law."

As amended Feb. 14, 1927, ch. 139, § 1, 44 Stat. 1098.

That section 476 of the Revised Statutes be amended to read as follows:

"SEC. 476. There shall be in the Patent Office a Commissioner of Patents, one first assistant commissioner, one assistant commissioner, and six examiners in chief, who shall be appointed by the President, by and with the advice and consent of the Senate. The first assistant commissioner and the assistant commissioner shall perform such duties pertaining to the office of commissioner as may be assigned to them, respectively, from time to time by the Commissioner of Patents. All other officers, clerks, and employees authorized by law for the office shall be appointed by the Secretary of Commerce upon the nomination of the Commissioner of Patents, in accordance with existing law."

As amended April 11, 1930, ch. 132, § 1, 46 Stat. 155.

That section 476 of the Revised Statutes, as amended (United States Code, title 35, section 2), is amended to read as follows:

"SEC. 476. There shall be in the Patent-Office a Commissioner of Patents, one first assistant commissioner, two assistant commissioners, and nine examiners-in-chief, who shall be appointed by the President, by and with the advice and consent of the Senate. The first assistant commissioner and the assistant commissioners shall perform such duties pertaining to the office of commissioner as may be assigned to them, respectively, from time to time by the Commissioner of Patents. All other officers, clerks, and employees authorized by law for the office shall be appointed by the Secretary of Commerce upon the nomination of the Commissioner of Patents, in accordance with existing law."

R. S. 478 _____ T. 35, § 2

The seal heretofore provided for the Patent-Office shall be the seal of the Office, with which letters-patent and papers issued from the Office shall be authenticated.

R. S. 479 _____ T. 35, § 5

The Commissioner of Patents and the chief clerk, before entering upon their duties, shall severally give bond, with sureties, to the Treasurer of the United States, the former in the sum of ten thousand dollars, and the latter in the sum of five thousand dollars, conditioned for the faithful discharge of their respective duties, and that they shall render to the proper officers of the Treasury a true account of all money received by virtue of their offices.

R. S. 480 _____ T. 35, § 4

All officers and employees of the Patent-Office shall be incapable, during the period for which they hold their appointments, to acquire or take, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by the Office.

R. S. 481 _____ T. 35, § 6

The Commissioner of Patents, under the direction of the Secretary of the Interior, shall superintend or perform all duties respecting the granting and issuing of patents directed by law; and he shall have charge of all books, records, papers, models, machines, and other things belonging to the Patent-Office.

R. S. 482 _____ T. 35, § 7

The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on written petition of the appellant, to revise and determine upon the validity of the adverse decisions of examiners upon applications for patents, and for re-issues of patents, and in interference cases; and, when required by the Commissioner, they shall hear and report upon claims for extensions, and perform such other like duties as he may assign them.

As amended Mar. 2, 1927, ch. 273, § 3, 44 Stat. 1335.

SEC. 3. That section 482 of the Revised Statutes of the United States be amended to read as follows:

"SEC. 482. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability. The Commissioner of Patents, the first assistant commissioner, the assistant commissioner, and the examiners in chief shall constitute a board of appeals, whose duty it shall be, on written petition of the appellant, to review and determine upon the validity of the adverse decisions of examiners upon applications for patents and for reissues of patents and in interference cases. Each appeal shall be heard by at least three members of the board of appeals, the members hearing such appeal to be designated by the commissioner. The board of appeals shall have sole power to grant rehearings."

As amended Apr. 11, 1930, ch. 132, § 2, 46 Stat. 255.

SEC. 2. Section 482 of the Revised Statutes as amended (United States Code, title 35, section 7) is hereby amended by substituting the words "assistant commissioners" for the words "assistant commissioner," in conformity with the provisions of section 1 of this bill.

As amended Mar. 4, 1950, ch. 50, 64 Stat. 11.

That section 482 of the Revised Statutes (35 U. S. C. 7) is amended by adding the following paragraph:

"The Commissioner, when in his discretion considered necessary to maintain the work of the board of appeals current, may designate any examiner of the primary examiner grade or higher, having the requisite ability, to serve as examiner in chief for periods not exceeding six months each, and any examiner so designated shall be qualified to act as a member of the board of appeals. Not more than one primary examiner shall be among the members of the board of appeals hearing an appeal."

R. S. 483 _____ T. 35, § 6

The Commissioner of Patents, subject to the approval of the Secretary of the Interior, may from time to time establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent-Office.

R. S. 486 _____ T. 35., § 8

There shall be purchased for the use of the Patent-Office a library of such scientific works and periodicals, both foreign and American, as may aid the officers in the discharge of their duties, not exceeding the amount annually appropriated for that purpose.

R. S. 487 _____ T. 35, § § 31, 32

For gross misconduct the Commissioner of Patents may refuse to recognize any person as a patent-agent, either generally or in any particular case; but the reasons for such refusal shall be duly recorded, and be subject to the approval of the Secretary of the Interior.

As amended Feb. 18, 1922, ch. 58, § 3, 42 Stat. 390.

SEC. 3. That section 487 of the Revised Statutes be, and the same is hereby, amended to read as follows:

"SEC. 487. The Commissioner of Patents, subject to the approval of the Secretary of the Interior, may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing applicants or other

parties before his office, and he may require of such persons, agents, or attorneys, before being recognized as representatives of applicants or other persons, that they shall show that they are of good moral character and in good repute, are possessed of the necessary qualifications to enable them to render to applicants or other persons valuable service, and are likewise competent to advise and assist applicants or other persons in the presentation or prosecution of their applications or other business before the office. And the Commissioner of Patents may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before his office any person, agent, or attorney shown to be incompetent or disreputable, or guilty of gross misconduct, or who refuses to comply with the said rules and regulations, or who shall, with intent to defraud in any manner, deceive, mislead, or threaten any applicant or prospective applicant, or other person having immediate or prospective business before the office, by word, circular, letter, or by advertising. The reasons for any such suspension or exclusion shall be duly recorded. And the action of the commissioner may be reviewed upon the petition of the person so refused recognition or so suspended or excluded by the Supreme Court of the District of Columbia under such conditions and upon such proceedings as the said court may by its rules determine."

R. S. 488 _____ T. 35, § 22

The Commissioner of Patents may require all papers filed in the Patent-Office, if not correctly, legibly, and clearly written, to be pined at the cost of the party filing them.

R. S. 489 _____ T. 35, § 11

The Commissioner of Patents may print, or cause to be printed, copies of the claims of current issues, and copies of such laws, decisions, regulations, and circulars as may be necessary for the information of the public.

R. S. 493 _____ T. 35, § 41

The price to be paid for uncertified printed copies of specifications and drawings of patents shall be determined by the Commissioner of Patents, within the limits of ten cents as the minimum and fifty cents as the maximum price.

As amended May 19, 1896, ch. 204, 29 Stat. 124.

That section four hundred and ninety-three of the Revised Statutes be, and the same hereby is, amended by striking out the words "within the limits of ten cents as the minimum and fifty cents as the maximum price," in lines three and four, and substituting in lieu thereof, "*Provided,* That the maximum cost of a copy shall be ten cents," so that the section so amended shall read as follows:

"SEC. 493. The price to be paid for uncertified printed copies of specifications and drawings of patents shall be determined by the Commissioner of Patents: *Provided,* That the maximum cost of a copy shall be ten cents."

R. S. 494 _____ T. 35, § 14

The Commissioner of Patents shall lay before Congress, in the month of January, annually, a report, giving a detailed statement of all moneys received for patents, for copies of records or drawings, or from any other source whatever; a detailed statement of all expenditures for contingent and miscellaneous expenses; a list of all patents which were granted during the preceding year, designating under proper heads the subjects of such patents; an alphabetical list of all the patentees, with their places of residence; a list of all patents which have been extended during the year; and such other information of the condition of the Patent-Office as may be useful to Congress or the public.

R. S. 496 _____ Omitted

All disbursements for the Patent-Office shall be made by the disbursing clerk of the Interior Department.

R. S. 4883 _____ T. 35, § 153

All patents shall be issued in the name of the United States of America, under the seal of the Patent-Office, and shall be signed by the Secretary of the Interior and countersigned by the Commissioner of Patents, and they shall be recorded, together with the specifications, in the Patent-Office, in books to be kept for that purpose.

As amended Feb. 18, 1888, ch. 15, 25 Stat. 40.

That section four thousand eight hundred and eighty-three of the Revised Statutes is hereby amended by inserting after the words "Secretary of the Interior," where they occur therein, the following words: "or under his direction by one of the Assistant Secretaries of the Interior," so that the said section as amended will read as follows:

"*SECTION 4883.* All patents shall be issued in the name of the United States of America, under the seal of the Patent Office and shall be signed by the Secretary of the Interior or under his direction by one of the Assistant Secretaries of the Interior, and counter-signed by the Commissiner of Patents, and they shall be recorded, together with the specifications, in the Patent Office, in books to be kept for that purpose."

As amended Apr. 11, 1902, ch. 417, 32 Stat. 95.

That section forty-eight hundred and eighty-three of the Revised Statutes be, and is hereby, amended so as to read as follows:

"SEC. 4883. All patents shall be issued in the name of the United States of America under the seal of the Patent Office, and shall be signed by the Commissioner of Patents, and they shall be recorded, together with the specifications, in the Patent Office in books to be kept for that purpose."

As amended Feb. 18, 1922, ch. 48, sec. 5, 42 Stat. 391.

SEC. 5. That section 4883 of the Revised Statutes be, and the same is hereby, amended to read as follows:

SEC. 4883. All patents shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall either be signed, by the Commissioner of Patents or have his name printed thereon and attested by an Assistant Commissioner of Patents or by one of the law examiners duly designated by the commissioner, and shall be recorded, together with the specifications, in the Patent Office in books to be kept for that purpose."

R. S. 4884 _____ T. 35, § § 154, 163

Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns, for the term of seventeen years, of the exclusive right to make, use and vend the invention or discovery throughout the United States and the Territories thereof, referring to the specification for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof.

As amended May 23, 1930, ch. 312, sec. 1, 46 Stat. 376.

That sections 4884 [and 4886] of the Revised Statutes, as amended (U. S. C., title 35, secs. 40 [and 31]), are amended to read as follows:

"SEC. 4884. Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the invention or discovery (including in the case of a plant patent the exclusive right to asexually reproduce the plant) throughout the United States and the Territories thereof, referring to the specification for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof."

R. S. 4885 _____ T. 35, § 151

Every patent shall bear date as of a day not later than six months from the time at which it was passed and allowed and notice thereof was sent to the applicant or his agent; and if the final fee is not paid within that period the patent shall be withheld.

As amended May 23, 1908, ch. 189, 35 Stat. 246.

That section forty-eight hundred and eighty-five of the Revised Statutes be, and the same hereby is amended to read as follows:

"SEC. 4885. Every patent shall issue within a period of three months from the date of the payment of the final fee, which fee shall be paid not later than six months from the time at which the application was passed and allowed and notice thereof was sent to the applicant or his agent; and if the final fee is not paid within that period the patent shall be withheld."

As amended Aug. 9, 1939, ch. 619, § 2, 53 Stat. 1293.

SEC. 2. That section 4885 of the Revised Statutes (U. S. C., title 35, sec. 41) be amended by adding at the end thereof the following: "*Provided, however,* That the Commissioner of Patents may in his discretion receive the final fee if paid within one year after the six months' period for payment has passed and the patent shall issue."

R. S. 4886 _____ T. 35, § § 101, 102, 161

Any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale for more than two hears prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law, and other due proceeding had, obtain a patent therefor.

As amended Mar. 3, 1897, ch. 391, § 1, 29 Stat. 692.

That section forty-eight hundred and eighty-six of the Revised Statutes be, and the same hereby is, amended by inserting on line four, after the word "country," the words "before his invention or discovery thereof," and on line five after the word "thereof", the words "or more than two years prior to his application," so that the clause so amended will read as follows:

"SEC. 4886. Any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvements thereof, not known or used by others in this country, before his invention or discovery thereof, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, or more than two years prior to his application, and not in public use or on sale in this country for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law, and other due proceeding had, obtain a patent therefor."

As amended May 23, 1930, ch. 312, sec. 1, 46 Stat. 376.

That sections [4884 and] 4886 of the Revised Statutes, as amended (U.S.C., title 35, secs. [40 and] 31), are amended to read as follows:

"SEC. 4886. Any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvements thereof, or who has invented or discovered and asexually reproduced any distinct and new variety of plant, other than a tuber-propagated plant, not known or used by others in this country, before his invention or discovery thereof, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, or more than two years prior to his application, and not in public use or on sale in this country for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law, and other due proceeding had, obtain a patent therefor."

As amended Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212.

That sections 4886, 4887, 4920, and 4929 of the Revised Statutes (U.S.C., title 35, secs, 31, 32, 69, and 73) be amended by striking out the words "two years" wherever they appear in said sections and substituting therefor the words "one year."

R. S. 4887 _____ T. 35, § § 102 (d), 119

No person shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid, by reason of its having been first patented or caused to be patented in a foreign country, unless the same has been introduced into public use in the United States for more than two years prior to the application. But every patent granted for an invention which has been previously patented in a foreign country shall be so limited as to expire at the time with the foreign patent, or, if there be more than one, at the same time with the one having the shortest term, and in no case shall it be in force more than seventeen years.

As amended Mar. 3, 1897, ch. 391, § 3, 29 Stat. 693.

SEC. 3. That section forty-eight hundred and eighty-seven of the Revised Statutes be, and the same hereby is, amended by inserting on line one, after the words "no person," the words "otherwise entitled thereto," and on line three, after the words "caused to be patented," the words "by the inventor or his legal representatives or assigns," and by erasing therein all that portion of the section which follows the words "in a foreign country," on lines three and four, and substituting in lieu thereof the following: "unless the application for said foreign patent was filed more than seven months prior to the filing of the application in this country, in which case no patent shall be granted in this country" so that the section so amended will read as follows:

"SEC. 4887. No person otherwise entitled thereto shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid, by reason of its having been first patented or caused to be patented by the inventor or his legal representatives or assigns in a foreign country, unless the application for said foreign patent was filed more than seven months prior to the filing of the application in this country, in which case no patent shall be granted in this country."

As amended Mar. 3, 1903, ch. 1019, § 1, 32 Stat. 1225.

That section forty-eight hundred and eighty-seven of the Revised Statutes is amended by changing the word "seven" to "twelve", and by inserting after the word "months" the words "in cases within the provisions of section forty-eight hundred and eighty-six of the Revised Statutes, and four months, in cases of designs," and by adding the following words: "An application for patent for an invention or discovery or for a design filed in this country by any person who has previously regularly filed an application for a patent for the same invention, discovery, or design in a foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States shall have the same force and effect as the same application would have if filed in this country on the date on which the application for patent for the same invention, discovery, or design was first filed in such foreign country, provided the application in this country is filed within twelve months in cases within the provisions of section forty-eight hundred and eighty-six of the Revised Statutes, and within four months in cases of designs, from the earliest date on which any such foreign application was filed. But no patent shall be granted on an application for patent for an invention or discovery or a design which had been patented or described in a printed publication in this or any foreign country more than two years before the date of the actual filing of the application in this country, or which had been in public use, or on sale in this country for more than two years prior to such filing," so that the section so amended shall read:

"SEC. 4887. No person otherwise entitled thereto shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid by reason of its having been first patented or caused to be patented by the inventor or his legal representatives or assigns in a foreign country, unless the application for said foreign patent was filed more than twelve months, in cases within the provisions of section forty-eight hundred and eighty-six of the Revised Statutes, and four months in cases of designs, prior to the filing of the application in this country, in which case no patent shall be granted in this country.

"An application for patent for an invention or discovery or for a design filed in this country by any person who has previously regularly filed an application for a patent for the same invention, discovery or design in a foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States shall have the same force and effect as the same application would have if filed in this country on the date on which the application for patent for

the same invention, discovery, or design was first filed in such foreign country, provided the application in this country is filed within twelve months in cases within the provisions of section forty-eight hundred and eighty-six of the Revised Statutes, and within four months in cases of designs, from the earliest date on which any such foreign application was filed. But no patent shall be granted on an application for patent for an invention or discovery or a design which had been patented or described in a printed publication in this or any foreign country more than two years before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country for more than two years prior to such filing."

As amended June 19, 1936, ch. 594, 49 Stat. 1529.

That section 4887 of the Revised Statutes (U.S.C., title 35, sec 32) be amended to read as follows:

"No person otherwise entitled thereto shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid by reason of its having been first patented or caused to be patented by the inventor or his legal representatives or assigns in a foreign country, unless the application for said foreign patent was filed more than twelve months, in cases within the provisions of section 4886 of the Revised Statutes, and six months in cases of designs, prior to the filing of the application in this country, in which case no patent shall be granted in this country.

"An application for patent for an invention or discovery or for a design filed in this country by any person who has previously regularly filed an application for a patent for the same invention, discovery, or design in a foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States shall have the same force and effect as the same application would have if filed in this country on the date on which the application for patent for the same invention, discovery, or design was first filed in such foreign country: *Provided,* That the application in this country is filed within twelve months in cases within the provisions of section 4886 of the Revised Statutes, and within six months in cases of designs, from the earliest date on which any such foreign application was filed. But no patent shall be granted on any application for patent for an invention or discovery or a design which had been patented or described in a printed publication in this or any foreign country more than one year before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country for more than one year prior to such filing."

As amended Aug. 5, 1939, ch. 450 § 1, 53 Stat. 1212.

That sections 4886, 4887, 4920, and 4929 of the Revised Statutes (U.S.C., title 35, secs. 31, 32, 69, and 73) be amended by striking out the words "two years" wherever they appear in said sections and substituting therefore the words "one year".

R. S. 4888 _____ T. 35, § § 111, 112 162

Before any inventor or discoverer shall receive a patent for his invention or discovery, he shall make application therefor, in writing, to the Commissioner of Patents, and shall file in the Patent-Office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a machine, he shall explain the principle thereof, and the best mode in which he has contemplated applying that principle, so as to distinguish it from other inventions; and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery. The specification and claim shall be signed by the inventor and attested by two witnesses.

As amended Mar. 3, 1915, ch. 94, § 1, 38 Stat. 958.

That section forty-eight hundred and eighty-eight of the Revised Statutes of the United States be, and the same is hereby, amended by striking out from the last clause thereof the words "and attested by two witnesses," so that the section so amended will read as follows:

"SEC. 4888. Before any inventor or discoverer shall receive a patent for his invention or discovery he shall make application therefor, in writing, to the Commissioner of Patents, and shall file in the Patent-Office a written description

of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a machine, he shall explain the principle thereof, and the best mode in which he has contemplated applying that principle, so as to distinguish it from other inventions; and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery. The specification and claim shall be signed by the inventor."

As amended May 23, 1930, ch. 312, § 2, 46 Stat. 376.

SEC. 2. Section 4888 of the Revised Statutes, as amended (U.S.C., title 35, sec. 33), is amended by adding at the end thereof the following sentence: "No plant patent shall be declared invalid on the ground of noncompliance with this section if the description is made as complete as is reasonably possible."

R. S. 4889 _____ T. 35, § 113

When the nature of the case admits of drawings, the applicant shall furnish one copy signed by the inventor or his attorney in fact, and attested by two witnesses, which shall be filed in the Patent Office; and a copy of the drawings to be furnished by the Patent Office, shall be attached to the patent as a part of the specification.

As amended Mar. 3, 1915, ch. 94, § 2, 38 Stat. 959.

SEC. 2. That section forty-eight hundred and eighty-nine of the Revised Statutes of the United States be, and the same is hereby, amended by striking out the words "and attested by two witnesses," so that the section so amended will read as follows:

"SEC. 4889. When the nature of the case admits of drawings, the applicant shall furnish one copy signed by the inventor or his attorney in fact, which shall be filed in the Patent Office; and a copy of the drawing to be furnished by the Patent Office, shall be attached to the patent as a part of the specification."

R. S. 4890 _____ T. 35, § 114

When the invention or discovery is of a composition of matter, the applicant, if required by the commissioner, shall furnish speci- mens of ingredients and of the composition, sufficient in quantity for the purpose of experiment.

R. S. 4891 _____ T. 35, § 114

In all cases which admit of representation by model, the applicant, if required by the commissioner, shall furnish a model of convenient size to exhibit advantageously the several parts of his invention or discovery.

R. S. 4892 _____ T. 35, § 115

The applicant shall make oath that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. Such oath may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, charge d'affaires, consul, or commercial agent, holding commission under the Government of the United States, or before any notary public of the foreign country in which the applicant may be.

As amended Mar. 3, 1903, ch. 1019, § 2, 32 Stat. 1226.

SEC. 2. That section forty-eight hundred and ninety-two of the Revised Statutes is amended by inserting after the words "notary public" the words "judge or magistrate having an official seal and authorized to administer oaths," and by adding at the end thereof the words "whose authority shall be proved by certificate of a diplomatic or consular officer of the United States;" so that the section so amended shall read:

"SEC. 4892. The applicant shall make oath that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. Such oath may be made before any person within the United States authorized by law to administer oaths, or when the applicant resides in a foreign country, before any minister, charge d'affaires, or consul holding commission under the Government of the United States, or before any notary public, judge, or magistrate having any official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by certificate of a diplomatic or consular officer of the United States."

As amended May 23, 1930, ch. 312, § 3, 46 Stat. 376.

SEC. 3. The first sentence of section 4892 of the Revised Statutes, as amended (U.S.C., title 35, sec. 35), is amended to read as follows:

"SEC. 4892. The applicant shall make oath that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement, or of the variety of plant, for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen."

R. S. 4893 _____ T. 35, § 131

On the filing of any such application and the payment of the fees required by law, the Commissioner of Patents shall cause an examination to be made of the alleged new invention or discovery; and, if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the commissioner shall issue a patent therefor.

R. S. 4894 _____ T. 35, § § 133, 267

All applications for patents shall be completed and prepared for examination within two years after the filing of the application, and in default thereof, or upon failure of the applicant to prosecute the same within two years after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable.

As amended Mar. 3, 1897, ch. 391, § 4, 29 Stat. 693.

SEC. 4. That section forty-eight hundred and ninety-four of the Revised Statutes be, and the same hereby is, amended by striking out the words "two years" in every place where they occur and substituting in lieu thereof the words "one year," so that the section so amended will read as follows:

"SEC. 4894. All applications for patents shall be completed and prepared for examination within one year after the filing of the application and in default thereof, or upon failure of the applicant to prosecute the same within one year after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable.

As amended July 6, 1916, ch. 225, § 1 (part), 39 Stat. 348.

Section forty-eight hundred and ninety-four of the Revised Statutes is amended so as to read as follows:

"SEC. 4894. All applications for patents shall be completed and prepared for examination within one year after the filing of the application, and in default thereof, or upon failure of the applicant to prosecute the same within one year after any action therein of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable: *Provided, however* That no application shall be regarded as abandoned which has become the property of the Government of the United States and with respect to which the head of any department of the Government shall have certified to the Commissioner of Patents, within a period of three years, that the invention disclosed therein is

important to the armament or defense of the United States: *Provided further,* That within ninety days, and not less than thirty days, before the expiration of any such three-year period the Commissioner of Patents shall, in writing, notify the head of the department interested in any pending application for patent, of the approaching expiration of the three-year period within which any application for patent shall have been pending."

As amended Mar. 2, 1927, ch. 273, 1, 44 Stat. 1335

That section 4894 of the Revised Statutes of the United States be amended by striking out the words "one year" wherever they appear and substituting therefor the words "six months."

As amended Aug. 7, 1939, ch. 568, 53 Stat. 1264

That section 4894 of the Revised Statutes (U. S. C., title 35, sec. 37) be amended by inserting after "six months", second occurrence, the words "or such shorter time, not less than thirty days or any extensions thereof, as shall be fixed by the Commisioner of Patents in writing to the applicant."

R. S. 4895 _____ T. 35, § 152

Patents may be granted and issued or reissued to the assignee of the inventor or discoverer; but the assignment must first be entered of record in the Patent Office. And in all cases of an application by an assignee for the issue of a patent, the application shall be made and the specification sworn to by the inventor or discoverer; and in all cases of an application for a reissue of any patent, the application must be made and the corrected specification signed by the inventor or discoverer, if he is living, unless the patent was issued and assignment made before the eighth day of July, eighteen hundred and seventy.

R. S. 4896 _____ T. 35, § 117

When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs at law of the deceased, in case he shall have died intestate; or if he shall have left a will, disposing of the same, then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his life time; and when the application is made by such legal representatives, the oath or affirmation required to be made shall be so varied in form that it can be made by them.

As amended Feb. 28, 1899, ch. 227, 30 Stat. 915

That section forty-eight hundred and ninety-six of the Revised Statutes is hereby amended by inserting after the words "in his lifetime" the following words: "and when any person having made any new invention or discovery for which a patent might have been granted becomes insane before a patent is granted, the right of applying for and obtaining the patent shall devolve upon his legally appointed guardian, conservator, or representative in trust for his estate, in as full manner and on the same terms and conditions as that same might have been claimed or enjoyed by him while sane;" and by inserting at the end of said section the following words; "The foregoing section, as to insane persons, is to cover all applications now on file in the Patent Office or which may be hereafter made," so that the said section as amended will read as follows:

"SEC. 4896. When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve upon his executor or administrator, in trust for the heirs at law of the deceased, in case he shall have died intestate; or if he shall have left a will, disposing of the same, then in trust for his devisees in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when any person having made any new invention or discovery for which a patent might have been granted becomes insane before a patent is granted, the right of applying for and obtaining the patent shall devolve on his legally appointed guardian, conservator, or representative in trust for his estate, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him while sane; and when the application is made by such legal representatives, the oath or affirmation required to be made shall be so varied in form that it can be made by them.

"The foregoing section, as to insane persons, is to cover all applications now on file in Patent Office or which may be hereafter made."

As amended Mar. 3. 1903, ch. 1019, § 3, 32 Stat. 1226-7

SEC. 3. That section forty-eight hundred and ninety-six of the Revised Statutes is amended by adding thereto the following sentence; "The executor or administrator duly authorized under the law of any foreign country to administer upon the estate of the deceased inventor shall, in case the said inventor was not domiciled in the United States at the time of his death, have the right to apply for and obtain the patent. The authority of such foreign executor or administrator shall be proved by certificate of a diplomatic or consular officer of the United States;" so that the section so amended shall read as follows:

"SEC. 4896. When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs at law of the decreased, in case he shall have died intestate; or if he shall have left a will disposing of the same, then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when the application is made by such legal representatives, the oath or affirmation required to be made shall be so varied in form that it can be made by them. The executor or administrator duly authorized under the law of any foreign country to administer upon the estate of the deceased inventor shall, in case the said inventor was not domiciled in the United States at the time of his death, have the right to apply for and obtain the patent. The authority of such foreign executor or administrator shall be proved by certificate of a diplomatic or consular officer of the United States."

As amended May 23, 1908, ch. 188, 35 Stat. 245

That section forty-eight hundred and ninety-six of the Revised Statutes be, and the same is hereby, amended so that the section shall read as follows:

"SEC. 4896. When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs at law of the deceased, in case he shall have died intestate; or if he shall have left a will disposing of the same, then in trust for his devisees in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when any person having made any new invention or discovery for which a patent might have been granted becomes insane before a patent is granted the right of applying for and obtaining the patent shall devolve on his legally appointed guardian, conservator, or representative in trust for his estate in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him while sane; and when the application is made by such legal rep- resentatives the oath or affirmation required to be made shall be so varied in form that it can be made by them. The executor or administrator duly authorized under the law of any foreign country to administer upon the estate of the deceased inventor shall, in case the said inventor was not domiciled in the United States at the time of his death, have the right to apply for and obtain the patent. The authority of such foreign executor or administrator shall be proved by certificate of a diplomatic or consular officer of the United States.

"The foregoing section, as to insane persons, is to cover all applications now on file in the Patent Office or which may be hereafter made."

R. S. 4898 _____ T. 35 § 261

Every patent or any interest therein shall be assignable in law by an instrument in writing, and the patentee or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under his patent to the whole or any specified part of the United States. An assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgage for a valuable consideration, without notice, unless it is recorded in the Patent-Office within three months from the date thereof.

As amended Mar. 3, 1897, ch. 391, § 5, 29 Stat. 693

SEC. 5. That section forty-eight hundred and ninety-eight of the Revised Statutes be, and the same hereby is, amended by adding thereto the following sentence:

"If any such assignment, grant, or conveyance of any patent shall be acknowledged before any notary public of the several States or Territories or the District of Columbia, or any commissioner of the United States circuit court, or before any secretary of legation or consular officer authorized to administer oaths or perform notarial acts under section seventeen hundred and fifty of the Revised Statutes the certificate of such acknowledgment, under the hand and official seal of such notary or other officer, shall be prima facie evidence of the execution of such assignment, grant, or conveyance," so that the section so amended will read as follows:

"SEC. 4898. Every patent or any interest therein shall be assignable in law by an instrument in writing, and the patentee or his assigns or legal representatives may in like manner grant and convey an exclusive right under his patent to the whole or any specified part of the United States. An assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from the date hereof.

"If any such assignment, grant, or conveyance of any patent shall be acknowledged before any notary public of the several States or Territories or the District of Columbia, or any commissioner of the United States circuit court, or before any secretary of legation or consular officer authorized to administer oaths or perform notarial acts under section seventeen hundred and fifty of the Revised Statutes, the certificate of such acknowledgment, under the hand and official seal of such notary or other officer, shall be prima facie evidence of the execution of such assignment, grant or conveyance."

As amended Feb. 18, 1922, ch. 58, § 6, 42 Stat. 391

SEC. 6. That section 4898 of the Revised Statutes be, and the same is hereby, amended to read as follows:

"SEC. 4898. Every patent or any interest therein shall be assignable in law by an instrument in writing, and the patentee or his assigns or legal representatives may in like manner grant and convey an exclusive right under his patent to the whole or any specified part of the United States. An assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration without notice, unless it is recorded in the Patent Office within three months from the date thereof or prior to such subsequent purchase or mortgage.

"If any such assignment, grant, or conveyance of any patent shall be acknowledged before any notary public of the several States or Territories or the District of Columbia, or any commissioner of any court of the United States for any District or Territory, or before any secretary of legation or consular officer authorized to administer oaths or perform notarial acts under section 1750 of the Revised Statutes, the certificate of such ac- knowledgment, under the hand and official seal of such notary or other officer, shall be prima facie evidence of the execution of such assignment, grant, or conveyance."

As amended Aug. 18, 1941, ch. 370, 55 Stat. 634

That section 4898 of the Revised Statutes (35 U. S. C. 47) be, and the same is hereby, amended to read as follows:

"SEC. 4898. Every application for patent or patent or any interest therein shall be assignable in law by an instrument in writing, and the applicant or patentee or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under his application for patent or patent to the whole or any specified part of the United States. An assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice unless it is recorded in the Patent Office within three months from the date thereof or prior to such subsequent purchase or mortgage.

"If any such assignment, grant, or conveyance of any application for patent or patent shall be acknowledged before any notary public of the several States or Territories or the District of Columbia, or any commissioner of any court of the United States for any district or Territory, or before any secretary of legation or consular officer authorized to administer oaths or perform notarial acts under section 1750 of the Revised Statutes (U. S. C., title 22, sec. 131) the certificate of such acknowledgment, under the hand and official seal of such notary or other officer, shall be prima facie evidence of the execution of such assignment, grant or conveyance."

R.S. 4899 _____ Omitted

Every person who purchases of the inventor, or discoverer, or with his knowledge and consent constructs any newly invented or discovered machine, or other patentable article, prior to the application by the inventor or discoverer for a patent, or who sells or uses one so constructed, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor.

R.S. 4900 _____ T. 35, § 287

It shall be the duty of all patentees, and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented; either by fixing thereon the word "patented," together with the day and year the patent was granted, or when, from the character of the article, this can not be done, by fixing to it, or to the package wherein one or more of them is inclosed, a label containing the like notice; and in any suit for infringement, by the party failing so to mark, no damages shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued, after such notice, to make, use, or vend the article so patented.

As amended Feb. 7, 1927, ch. 67, 44 Stat. 1058

That section 4900 of the Revised Statutes of the United States shall be amended to read as follows:

"It shall be the duty of all patentees and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented; either by fixing thereon the word 'patent', together with the number of the patent, or when, from the character of the article, this can not be done, by fixing to it, or to the package wherein one or more of them is inclosed, a label containing the like notice: *Provided, however,* That with respect to any patent issued prior to April 1, 1927, it shall be sufficient to give such notice in the form following, viz: *'Patented',* together with the day and year the patent was granted; and in any suit for infringement by the party failing so to mark, no damages shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement and continued, after such notice, to make, use, or vend the article so patented."

R. S. 4901 _____ T. 35, § 292

Every person who, in any manner, marks upon anything made, used, or sold by him for which he has not obtained a patent, the name or any imitation of the name of any person who has obtained a patent therefor without the consent of such patentee, or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any such patented article the word "patent" or "patentee", or the words "letters patent" or any word of like import, with intent to imitate or counterfeit the mark or device of the patentee, without having the license or consent of such patentee or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any unpatented article the word "patent," or any word importing that the same is patented, for the purpose of deceiving the public, shall be liable, for every such offense, to a penalty of not less than $ 100, with costs; one-half of said penalty to the person who shall sue for the same, and the other to the use of the United States, to be recovered by suit in any district court of the United States within whose jurisdiction such offense may have been committed.

R.S. 4903 _____ T. 35, § 132, 135

Whenever, on examination, any claim for a patent is rejected, the Commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging of the propriety of renewing his application or of altering his specification; and if after receiving such notice, the applicant persists in his claim for a patent, with or without altering his specification, the Commissioner shall order a reexamination of the case.

As amended Aug. 5, 1939, ch. 452, § 1, 53 Stat. 1213.

That section 4903 of the Revised Statutes (U. S. C., title 35, sec. 51) be amended by adding at the end thereof the following:

"No amendment for the first time presenting or asserting a claim which is the same as, or for substantially the same subject matter as, a claim of an issued patent may be made in any application unless such amendment is filed within one year from the date on which said patent was granted."

R. S. 4904 _____ T. 35, § 135

Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicants, or applicant and patentee, as the case may be, and shall direct the primary examiner to proceed to determine the question of priority of invention. And the Commissioner may issue a patent to the party who is adjudged the prior inventor, unless the adverse party appeals from the decision of the primary examiner, or of the board of examiners-in-chief, as the case may be, within such time, not less than twenty days, as the Commissioner shall prescribe.

As amended Mar. 2, 1927, ch. 273, § 4, 44 Stat. 1336.

SEC. 4. That section 4904 of the Revised Statutes of the United States be amended by striking out from the last sentence thereof the words "or of the board of examiners in chief, as the case may be."

As amended Aug. 5, 1939, ch. 451, § 1, 53 Stat. 1212.

That section 4904 of the Revised Statutes (U. S. C., title 35, sec. 52) be amended to read as follows:

"Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicants, or applicant and patentee, as the case may be, and shall direct a board of three examiners of interferences to proceed to determine the question of priority of invention. And the Commissioner may issue a patent to the party who is adjudged the prior inventor."

R. S. 4905 _____ T. 35, § 23

The Commissioner of Patents may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where the officer resides.

R. S. 4906 _____ T. 35 § 24

The clerk in any court of the United States, for any district or Territory wherein testimony is to be taken for use in any contested case pending in the Patent-Office, his agent or attorney, [sic] issue a subpoena for any witness residing or being within such district or Territory, commanding him to appear and testify before any officer in such district or Territory authorized to take depositions and affidavits, at any time and place in the subpoena stated. But no wit- ness shall be required to attend at any place more than forty miles from the place where the subpoena is served upon him.

As amended Feb. 18, 1922, ch. 58, § 7, 49 Stat. 391, 392.

SEC. 7. That section 4906 of the Revised Statutes be, and the same is hereby amended to read as follows:

"SEC. 4906. The clerk of any court of the United States, for any District or Territory wherein testimony is to be taken for use in any contested case pending in the Patent Office, shall, upon the application of any party thereto, or of his agent or attorney, issue a subpoena for any witness residing or being within such District or Territory, commanding him to appear and testify before any officer in such District or Territory authorized to take depositions and affidavits at any time and place in the subpoena stated. But no witness shall be required to attend at any place more than forty miles from the place where the subpoena is served upon him; and the provisions of section 869 of the Revised Statutes relating to the issuance of subpoenas duces tecum shall apply to contested cases in the Patent Office."

R. S. 4907 _____ T. 35, § 24

Every witness duly subpoenaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States.

R. S. 4908 _____ T. 35, § 24

Whenever any witness, after being duly served with such subpoena, neglects or refuses to appear, or after appearing refuses to testify the judge of the court whose clerk issued the subpoena may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience, as in other like cases. But no witness shall be deemed guilty of contempt for disobeying such subpoena, unless his fees and traveling expenses in going to, returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpoena; nor for refusing to disclose any secret invention or discovery made or owned by himself.

R. S. 4909 _____ T. 35, § 134

Every applicant for a patent or for the re-issue of a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner, or of the examiner in charge of interferences in such case, to the board of examiners-in-chief; having once paid the fee for such appeal.

As amended Mar. 2, 1927, ch. 273, § 5, 44 Stat. 1336.

SEC. 5. That section 4909 of the Revised Statutes of the United States be amended by striking out the words "board of examiners in chief" and substituting therefor the words "board of appeals."

As amended Aug. 5, 1939, ch. 451, § 2, 53 Stat. 1212.

SEC. 2. That section 4909 of the Revised Statutes (U. S. C., title 35, sec. 57) be amended to read as follows:

"Every applicant for a patent or for the reissue of a patent, any of the claims of which have been twice rejected, may appeal from the decision of the primary examiner to the Board of Appeals, having once paid the fee for such appeal."

R. S. 4911 _____ T. 35, § 141

If such party, except a party to an interference, is dissatisfied with the decision of the Commissioner, he may appeal to the supreme court of the District of Columbia, sitting in banc.

As amended Mar. 2, 1927, ch. 273, § 8, 44 Stat. 1336.

SEC. 8. That section 4911 of the Revised Statutes of the United States be amended to read as follows:

"SEC. 4911. If any applicant is dissatisfied with the decision of the board of appeals, he may appeal to the United States Court of Appeals of the District of Columbia, in which case he waives his right to proceed under section 4915 of the Revised Statutes. If any party to an interference is dissatisfied with the decision of the board of appeals, he may appeal to the United States Court of Appeals of the District of Columbia, provided that such appeal shall be dismissed if any adverse party to such interference shall, within twenty days after the appellant shall have filed notice of appeal according to section 4912 of the Revised Statutes, file notice with the Commissioner of Patents that he elects to have all further proceedings conducted as provided in section 4915 of the Revised Statutes. Thereupon the appellant shall have thirty days thereafter within which to file a bill of equity under said section 4915, in default of which the decisions appealed from shall govern the further proceedings in the case. If the appellant shall file such bill within said thirty days and shall file due proof thereof with the Commissioner of Patents, the issue of a patent to the party awarded priority by said board of appeals shall be withheld pending the final determination of said proceeding under said section 4915."

As amended Mar. 2, 1929, ch. 488, § 2 (b), 45 Stat. 1475.

SEC. 2. (b) Sections 4911 (Forty-fourth Statutes, page 1336), 4912 (section 60, title 35, United States Code), and 4915 (section 63, title 35, United States Code) of the Revised Statutes, as amended, and section 9 of the Act entitled "An Act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same," approved February 20, 1905 (United States Code, title 15, section 89), are amended by striking out the words "Court of Appeals of the District of Columbia" wherever they occur therein and inserting in lieu thereof the words "United States Court of Customs and Patent Appeals" in each instance.

As amended Aug. 5, 1939, ch. 451, § 3, 53 Stat. 1212.

SEC. 3. That section 4911 of the Revised Statutes (U. S. C., title 35, sec. 59a) be amended by changing the words "Board of Appeals" in the second sentence to read "board of interference examiners", and by canceling the last sentence of said section.

R. S. 4912 _____ T. 35, § 142

When an appeal is taken to the supreme court of the District of Columbia, the appellant shall give notice thereof to the Commissioner, and file in the Patent-Office, within such time as the Commissioner shall appoint, his reasons of appeal, specifically set forth in writing.

As amended Mar. 2, 1927, ch. 273, § 9, 44 Stat. 1336.

SEC. 9. That section 4912 of the Revised Statutes of the United States be amended by striking out the words "Supreme Court of the District of Columbia" and substituting therefor the words "Court of Appeals of the District of Columbia".

R. S. 4913 _____ T. 35, § 143

The court shall, before hearing such appeal, give notice to the Commissioner of the time and place of the hearing, and on receiving such notice the Commissioner shall give notice of such time and place in such manner as the court may prescribe, to all parties who appear to be interested therein. The party appealing shall lay before the court certified copies of all the original papers and evidence in the case, and the Commissioner shall furnish the court with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal. And at the request of any party interested, or of the court, the Commissioner and the examiners may be examined under oath, in explanation of the principles of the thing for which a patent is demanded.

As amended Mar. 2, 1927, ch. 273, § 10, 44 Stat. 1336.

SEC. 10. That section 4913 of the Revised Statutes of the United States be amended by striking out the words "And at the request of any party interested, or of the court, the commissioner and the examiners may be examined under oath in explanation of the principles of the thing for which a patent is demanded."

R. S. 4914 _____ T. 35, § 144

The court, on petition, shall hear and determine such appeal, and revise the decision appealed from in a summary way, on the evidence produced before the commissioner, at such early and convenient time as the court may appoint; and the revision shall be confined to the points set forth in the reasons of appeal. After hearing the case the court shall return to the commissioner a certificate of its proceedings and decision, which shall be entered of record in the Patent Office, and shall govern the further proceedings in the case. But no opinion or decision of the court in any such case shall preclude any person interested from the right to contest the validity of such patent in any court wherein the same may be called in question.

R. S. 4915 _____ T. 35, § § 145, 146

Whenever a patent on application is refused, either by the Commissioner of Patents or by the supreme court of the District of Columbia upon appeal from the Commissioner, the applicant may have remedy by bill in equity; and the

court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the Commissioner to issue such patent on the applicant filing in the Patent-Office a copy of the adjudication, and otherwise complying with the requirements of law. In all cases, where there is no opposing party, a copy of the bill shall be served on the Commissioner; and all the expenses of the proceeding shall be paid by the applicant, whether the final decision is in his favor or not.

As amended Mar. 2, 1927, ch. 273, § 11, 44 Stat. 1336.

SEC. 11. That section 4915 of the Revised Statutes of the United States be amended to read as follows:

"SEC. 4915. Whenever a patent on application is refused by the Commissioner of Patents, the applicant, unless appeal has been taken from the decision of the board of appeals to the Court of Appeals of the District of Columbia, and such appeal is pending or has been decided, in which case no action may be brought under this section, may have remedy by bill in equity, if filed within six months after such refusal; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the commissioner to issue such patent on the applicant filing in the Patent Office a copy of the adjudication and otherwise complying with the requirements of law. In all cases where there is no opposing party a copy of the bill shall be served on the commissioners; and all the expenses of the proceedings shall be paid by the applicant, whether the final decision is in his favor or not. In all suits brought hereunder where there are adverse parties the record in the Patent Office shall be admitted in whole or in part, on motion of either party, subject to such terms and conditions as to costs, expenses, and the further cross-examination of the witnesses as the court may impose, without prejudice, however, to the right of the parties to take further testimony. The testimony and exhibits, or parts thereof, of the record in the Patent Office when admitted shall have the same force and effect as if originally taken and produced in the suit."

As amended Mar. 2, 1929, ch. 488 § 2 (b), 45 Stat. 1475.

SEC. 2. (b) Sections 4911 (Forty-fourth Statutes, page 1336), 4912 (section 60, title 35, United States Code), and 4915 (section 63, title 35, United States Code) of the Revised Statutes, as amended, and section 9 of the Act entitled "An Act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same," approved February 20, 1905 (United States Code, title 15, section 89), are amended by striking out the words "Court of Appeals of the District of Columbia" wherever they occur therein and inserting in lieu thereof the words "United States Court of Customs and Patent Appeals" in each instance.

As amended Aug. 5, 1939, ch. 451, § 4, 53 Stat. 1212.

SEC. 4. That section 4915 of the Revised Statutes (U. S. C., title 35, sec. 63) be amended by changing the first sentence thereof to read:

"Whenever a patent on application is refused by the Board of Appeals or whenever any applicant is dissatisfied with the decision of the board of interference examiners, the applicant, unless appeal has been taken to the United States Court of Customs and Patent Appeals, and such appeal is pending or has been decided, in which case no action may be brought under this section, may have remedy by bill in equity, if filed within six months after such refusal or decision; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim or for any part thereof, as the facts in the case may appear."

R. S. 4916 _____ T. 35, § § 251, 252

Whenever any patent is inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new, if the error has arisen by inadvertence, acci- dent, or mistake, and without any fraudulent or deceptive intention, the Commissioner shall, on the surrender of such patent and the payment of the duty required by law, cause a new patent for the same invention,

and in accordance with the corrected specification, to be reissued to the patentee, or in the case of his death or of an assignment of the whole or any undivided part of the original patent, then to his executors, administrators, or assigns, for the unexpired part of the term of the original patent. Such surrender shall take effect upon the issue of the amended patent. The Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued letters-patent. The specifications and claims in every such case shall be subject to revision and restriction in the same manner as original applications are. Every patent so reissued, together with the corrected specification, shall have the same effect and operation in law, on the trial of all actions for causes thereafter arising, as if the same had been originally filed in such corrected form; but no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended, except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.

May 24, 1928, ch. 730, 45 Stat. 732 as amended.

That section 4916 of the Revised Statutes of the United States be, and the same is hereby, amended to read as follows:

"SEC. 4916. Whenever any patent is wholly or partly inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new, if the error has arisen by advertence, accident, or mistake, and without any fraudulent or deceptive intention, the commissioner shall, on the surrender of such patent and the payment of the duty required by law, cause a patent for the same invention, and in accordance with the corrected specification, to be reissued to the patentee or to his assigns or legal representatives, for the unexpired part of the term of the original patent. Such surrender shall take effect upon the issue of the reissued patent, but in so far as the claims of the original and reissued patents are identical, such surrender shall not affect any action then pending nor abate any cause of action then existing, and the reissued patent to the extent that its claims are identical with the original patent shall constitute a continuation thereof and have effect continuously from the date of the original patent. The commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued letters-patent. The specifications and claims in every such case shall be subject to revision and restriction in the same manner as original applications are. Every patent so reissued, together with the corrected specifications, shall have the same effect and operation in law, on the trial of all actions for causes thereafter arising, as if the same had been originally filed in such corrected form; but no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended, except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid."

R. S. 4917 _____ T. 35, § 253

Whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his heirs or assigns, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make disclaimer of such parts of the thing patented as he shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office; and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

R. S. 4918 _____ T. 35, § 291

Whenever there are interfering patents, any person interested in any one of them, or in the working of the invention claimed under either of them, may have relief against the interfering patentee, and all parties interested under him, by

suit in equity against the owners of the interfering patent; and the court, on notice to adverse parties, and other due proceedings had according to the course of equity, may adjudge and declare either of the patents void in whole or in part, or inoperative, or invalid in any particular part of the United States, according to the interest of the parties in the patent or the invention patented. But no such judgment or adjudication shall affect the right of any person except the parties to the suit and those deriving title under them subsequent to the rendition of such judgment.

Mar. 2, 1927, ch. 273, § 12, 44 Stat. 1337 as amended.

SEC. 12. That section 4918 of the Revised Statutes of the United States be amended to change the phrase "may adjudge and declare eight [sic] of the patents void in whole or in part" to read as follows: "may adjudge and declare either or both of the patents void in whole or in part, upon any ground."

R. S. 4919 _____ T. 35, § § 281, 284

Damages for the infringement of any patent may be recovered by action on the case, in the name of the party interested, either as patentee, assignee, or grantee. And whenever in any such action a verdict is rendered for the plaintiff, the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

R. S. 4920 _____ T. 35, § 282

In any action for infringement the defendant may plead the general issue, and, having given notice in writing to the plaintiff or his attorney thirty days before, may prove on trial any one or more of the following special matters:

First. That for the purpose of deceiving the public the description and specification filed by the patentee in the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using reasonable diligence in adapting and perfecting the same; or,

Third. That it has been patented or described in some printed publication prior to his supposed invention or discovery thereof; or

Fourth. That he was not the original and first inventor or discoverer of any material and substantial part of the thing patented; or,

Fifth. That it had been in public use or on sale in this country for more than two years before his application for a patent, or had been abandoned to the public.

And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state the names of the patentees and the dates of their patents, and when granted, and the names and residences of the persons alleged to have invented or to have had the prior knowledge of the thing patented, and where and by whom it had been used; and if any one or more of the special matters alleged shall be found for the defendant, judgment shall be rendered for him with costs. And the like defenses may be pleaded in any suit in equity for relief against an alleged infringement; and proofs of the same may be given upon like notice in the answer of the defendant, and with the like effect.

Mar. 3, 1897, ch. 391, § 2, 29 Stat. 692 as amended.

SEC. 2. That section forty-nine hundred and twenty of the Revised Statutes be, and the same hereby is, amended by adding to the third clause of said section after "thereof" and before "or" the following words: "or more than two years prior to his application for a patent therefor," so that the section so amended will read as follows:

"SEC. 4920. In any action for infringement the defendant may plead the general issue, and, having given notice in writing to the plaintiff or his attorney thirty days before, may prove on trial any one or more of the following special matters:

"First. That for the purpose of deceiving the public the description and specification filed by the patentee in the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

"Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using reasonable diligence in adapting and perfecting the same; or,

"Third. That it has been patented or described in some printed publication prior to his supposed invention or discovery thereof, or more than two years prior to his application for a patent therefor; or,

"Fourth. That he was not the original and first inventor or discoverer of any material and substantial part of the thing patented; or,

"Fifth. That it had been in public use or on sale in this country for more than one year before his application for a patent, or had been abandoned to the public.

"And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state the names of the patentees and the dates of their patents, and when granted, and the names and residences of the persons alleged to have invented or to have had the prior knowledge of the thing patented, and where and by whom it had been used; and if any one or more of the special matters alleged shall be found for the defendant, judgment shall be rendered for him with costs. And the like defenses may be pleaded in any suit in equity for relief against an alleged infringement; and proofs of the same may be given upon like notice in the answer of the defendant, and with the like effect."

Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212 as amended.

That sections 4886, 4887, 4920, and 4929 of the Revised Statutes (U. S. C., title 35, secs. 31, 32, 69, and 73) be amended by striking out the words "two years" wherever they appear in said sections and substituting therefor the words "one year."

R. S. 4921 _____ T. 35, § § 283, 284, 285, 286, 290

The several courts vested with jurisdiction of cases arising under the patent laws shall have power to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for an infringement, the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby; and the court shall assess the same or cause the same to be assessed under its direction. And the court shall have the same power to increase such damages, in its discretion, as is given to increase the damages found by verdicts in actions in the nature of actions of trespass upon the case.

Mar. 3, 1897, ch. 391, § 6, 29 Stat. 694 as amended.

SEC. 6. That section forty-nine hundred and twenty-one of the Revised Statutes be, and the same hereby is, amended by adding thereto the following sentence:

"But in any suit or action brought for the infringement of any patent there shall be no recovery of profits or damages for any infringement committed more than six years before the filing of the bill of complaint or the issuing of the writ in such suit or action, and this provision shall apply to existing causes of action." so that the section so amended will read as follows:

"SEC. 4921. The several courts vested with jurisdiction of cases arising under the patent laws shall have power to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for an infringement the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complaint has sustained thereby; and the court shall assess the same or cause the same to be assessed under its direction. And the court shall have the same power to increase such damages, in its discretion, as is given to increase the damages found by verdicts in actions in the nature of actions of trespass upon the case.

"But in any suit or action brought for the infringement of any patent there shall be no recovery of profits or damages for any infringement committed more than six years before the filing of the bill of complaint or the issuing of the writ in such suit or action, and this provision shall apply to existing causes of action."

Feb. 18, 1922, ch. 58, § 8, 42 Stat. 392 as amended.

SEC. 8. That section 4921 of the Revised Statutes be, and the same is hereby, amended to read as follows:

"SEC. 4921. The several courts vested with jurisdiction of cases arising under the patent laws shall have power to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for an infringement the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby, and the court shall assess the same or cause the same to be assessed under its direction. If on the proofs it shall appear that the complainant has suffered damage from the infringement or that the defendant has realized profits therefrom to which the complainant is justly entitled, but that such damages or profits are not susceptible of calculation and determination with reasonable certainty, the court may, on evidence tending to establish the same, in its discretion, receive opinion or expert testimony, which is hereby declared to be competent and admissible, subject to the general rules of evidence applicable to this character of testimony; and upon such evidence and all other evidence in the record the court may adjudge and decree the payment by the defendant to the complainant of a reasonable sum as profits or general damages for the infringement: *Provided,* That this provision shall not affect pending litigation. And the court shall have the same power to increase such damages, in its discretion, as is given to increase the damages found by verdicts in actions in the nature of actions of trespass upon the case; but in any suit or action brought for the infringement of any patent there shall be no recovery of profits or damages for any infringement committed more than six years before the filing of the bill of complaint or the issuing of the writ in such suit or action, and this provision shall apply to existing causes of action. And it shall be the duty of the clerks of such courts within one month after the filing of any action, suit, or proceeding arising under the patent laws to give notice thereof in writing to the Commissioner of Patents, setting forth in order so far as known the names and addresses of the litigants, names of the inventors, and the designating number or numbers of the patent or patents upon which the action, suit, or proceeding has been brought, and in the event any other patent or patents be subsequently included in the action, suit, or proceeding by amendment, answer, cross bill, or other pleading, the clerk shall give like notice thereof to the Commissioner of Patents, and within one month after the decision is rendered or a decree issued the clerk of the court shall give notice thereof to the Commissioner of Patents, and it shall be the duty of the Commissioner of Patents on receipt of such notice forthwith to indorse the same upon the file wrapper of the said patent or patents and to incorporate the same as a part of the contents of said file or file wrapper; and for each notice required to be furnished to the Commissioner of Patents in compliance herewith a fee of 50 cents shall be taxed by the clerk as costs of suit."

Aug. 1, 1946, ch. 726, 60 Stat. 778 as amended.

That section 4921 of the Revised Statutes of the United States (35 U. S. C. A. 70) is hereby amended to read as follows:

"The several courts vested with jurisdiction of cases arising under the patent laws shall have power to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; and upon a judgment being rendered in any case for an infringement the complainant shall be entitled to recover general damages which shall be due compensation for making, using, or selling the invention, not less than a reasonable royalty therefor, together with such costs, and interest, as may be fixed by the court. The court may in its dis- cretion award reasonable attorney's fees to the prevailing party upon the entry of judgment on any patent case.

"The court is authorized to receive expert or opinion evidence upon which to determine in conjunction with any other evidence in the record, due compensation for making, using, or selling the invention, and such expert or opinion evidence is declared to be competent and admissible subject to the general rules of evidence applicable thereto.

"The court shall assess said damages, or cause the same to be assessed, under its direction and shall have the same power to increase the assessed damages, in its discretion, as is given to increase the damages found by verdicts in actions in the nature of actions of trespass upon the case; but recovery shall not be had for any infringement committed more than six years prior to the filing of the complaint in the action. And it shall be the duty of the clerks of such courts

within one month after the filing of any action, suit, or proceeding arising under the patent laws to give notice thereof in writing to the Commissioner of Patents, setting forth in order so far as known the names and addresses of the litigants, names of the inventors, and the designating number or numbers of the patent or patents upon which the action, suit, or proceeding has been brought, and in the event any other patent or patents be subsequently included in the action, suit, or proceeding by amendment, answer, cross bill, or other pleading, the clerk shall give like notice thereof to the Commissioner of Patents, and within one month after the decision is rendered or a judgment issued the clerk of the court shall give notice thereof to the Commissioner of Patents, and it shall be the duty of the Commissioner of Patents on receipt of such notice forthwith to endorse the same upon the file wrapper of the said patent or patents, and to incorporate the same as a part of the contents of said file or file wrapper."

This Act shall take effect upon approval and shall apply to pending causes of action in which the taking of the testimony has not been concluded: *Provided, however,* That pending causes of action in which the taking of the testimony has been concluded are to be governed by the statute in force at the time of approval of this Act as if such statute had not been amended.

R. S. 4922 _____ T. 35, § 288

Whenever, through inadvertence, accident, or mistake and without any willful default or intent to defraud or mislead the public, a patentee has, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor or discoverer, every such patentee, his executors, administrators, and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity, for the infringement of any part thereof, which was bona fide his own, if it is a material and substantial part of the thing patented, and definitely distinguishable from the parts claimed without right, notwithstanding the specifications may embrace more than that of which the patentee was the first inventor or discoverer. But in every such case in which a judgment or decree shall be rendered for the plaintiff no costs shall be recovered unless the proper disclaimer has been entered at the Patent Office before the commencement of the suit. But no patentee shall be entitled to the benefits of this section if he has unreasonably neglected or delayed to enter a disclaimer.

R. S. 4923 _____ T. 35, § 102, 104

Whenever it appears that a patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been known or used in a foreign country, before his invention or discovery thereof, if it had not been patented or described in a printed publication.

R. S. 4929 _____ T. 35, § 171

Any person who, by his own industry, genius, efforts, and expense, has invented and produced any new and original design for a manufacture, bust, statute, altorelievo, or bas-relief; any new and original design for the printing of woolen, silk, cotton, or other fabrics; any new and original impression, ornament, patent, print, or picture to be printed, painted, cast, or otherwise placed on or worked into any article of manufacture: or any new, useful, and original shape or configuration of any article of manufacture, the same not having been known or used by others before his invention or production thereof, or patented or described in any printed pub- lication, may, upon payment of the fee prescribed, and other due proceedings had the same as in cases of inventions or discoveries, obtain a patent therefor.

As amended May 9, 1902, ch. 783, 32 Stat. 193.

That section forty-nine hundred and twenty-nine of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 4949. [sic] Any person who has invented any new, original, and ornamental design for an article of manufacture, not known or used by others in this country before his invention thereof, and not patented or described in any printed publication in this or any foreign country before his invention thereof, or more than two years prior to his application, and not in public use or on sale in this country for more than two years prior to his application, unless the

same is proved to have been abandoned, may, upon payment of the fees required by law and other due proceedings had, the same as in cases of inventions or discoveries covered by section 4886, obtain a patent therefor."

As amended Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212.

That sections 4886, 4887, 4920, and 4929 of the Revised Statutes (U. S. C., title 35, secs. 31, 32, 69, and 73) be amended by striking out the words "two years" wherever they appear in said sections and substituting therefor the words "one year".

R. S. 4930 _____ T. 35, § 114

The commissioner may dispense with models of designs when the design can be sufficiently represented by drawings or photographs.

R. S. 4931 _____ T. 35, § 173

Patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant may, in his application, elect.

R. S. 4933 _____ T. 35, § 171

All the regulations and provisions which apply to obtaining or protecting patents for inventions or discoveries not inconsistent with the provisions of this title, shall apply to patents for designs.

R. S. 4934 _____ T. 35, § § 12, 13, 41

The following shall be the rates for patent-fees:

On filing each original application for a patent, except in design cases, fifteen dollars.

On issuing each original patent, except in design cases, twenty dollars.

In design cases: For three years and six months ten dollars; for seven years, fifteen dollars; for fourteen years, thirty dollars.

On filing each caveat, ten dollars.

On every application for the re-issue of a patent, thirty dollars.

On filing each disclaimer, ten dollars.

On every application for the extension of a patent, fifty dollars.

On the granting of every extension of a patent, fifty dollars.

On an appeal for the first time from the primary examiners to the examiners-in-chief, ten dollars.

On every appeal from the examiners-in-chief to the Commissioner, twenty dollars.

For certified copies of patents and other papers, including certified printed copies, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, one dollar; of over three hundred and under one thousand words, two dollars; of over one thousand words, three dollars.

For copies of drawings, the reasonable cost of making them.

As amended Feb. 18, 1922, ch. 58, § 9, 42 Stat. 393.

SEC. 9. That section 4934 of the Revised Statutes be, and the same is hereby, amended to read as follows:

"SEC. 4934. The following shall be the rates for patent fees:

"On filing each original application for a patent, except in design cases, $ 20.

"On issuing each original patent, except in design cases, $ 20.

"In design cases: For three years and six months, $ 10; for seven years, $ 15; for fourteen years, $ 30.

"On every application for the reissue of a patent, $ 30.

"On filing each disclaimer, $ 10.

"On an appeal for the first time from the primary examiners to the examiners in chief, $ 10.

"On every appeal from the examiners in chief to the commissioner, $ 20.

"For uncertified printed copies of specifications and drawings of patents, 10 cents per copy: *Provided,* That the Commissioner of Patents may supply public libraries of the United States with such copies as published, for $ 50 per annum: *Provided further,* That the Commissioner of Patents may exchange copies of United States patents for those of foreign countries.

"For copies of records made by the Patent Office, excluding printed copies, 10 cents per hundred words.

"For each certificate, 25 cents.

"For recording every assignment, agreement, power of attorney, or other paper of three hundred words or under, $ 1; of over three hundred and under one thousand words, $ 2; and for each additional thousand words or fraction thereof, $ 1; for each additional patent or application included or involved in one writing, where more than one is so included or involved, 25 cents additional.

"For copies of drawings, the reasonable cost of making them."

As amended Feb. 14, 1927, ch. 139, § 2, 44 Stat. 1098.

SEC. 2. That section 4934 of the Revised Statutes be amended to read as follows:

"SEC. 4934. The following shall be the rates for patent fees:

"On filing each original application for a patent, except in design cases, $ 20, and $ 1 for each claim in excess of twenty.

"On issuing each original patent, except in design cases, $ 20, and $ 1 for each claim in excess of twenty.

"In design cases: For three years and six months, $ 10; for seven years, $ 15; for fourteen years, $ 30.

"On every application for the reissue of a patent, $ 30.

"On filing each disclaimer, $ 10.

"On an appeal for the first time from the primary examiners to the examiners in chief, $ 10.

"On every appeal from the examiners in chief to the commissioner, $ 20.

"For uncertified printed copies of specifications and drawings of patents, 10 cents per copy: *Provided,* That the Commissioner of Patents may supply public libraries of the United States with such copies as published for $ 50 per annum: *Provided further,* That the Commissioner of Patents may exchange copies of United States patents for those of foreign countries.

"For copies of records made by the Patent Office, excluding printed copies, 10 cents per hundred words.

"For each certificate, 25 cents.

"For recording every assignment, agreement, power of attorney, or other paper of three hundred words or under, $ 1; of over three hundred and under one thousand words, $ 2; and for each additional thousand words or fraction thereof, $ 1; for each additional patent or application included or involved in one writing, where more than one is so included or involved, 25 cents additional.

"For copies of drawings, the reasonable cost of making them."

As amended Mar. 2, 1927, ch. 273, § 13, 44 Stat. 1337.

SEC. 13. That section 4934 of the Revised Statutes of the United States be amended by striking out the following words: "On an appeal for the first time from the primary examiners to the examiners in chief, $ 10. On every appeal from the examiners in chief to the commissioner, $ 20," and substituting therefor the words "on an appeal for the first time from the primary examiners to the board of appeals, $ 15. On every appeal from the examiner of interferences to the board of appeals, $ 25."

As amended Apr. 11, 1930, ch. 132, § 3, 46 Stat. 155.

SEC. 3. Section 4934 of the Revised Statutes, as amended (United States Code, title 35, section 78), is amended to read as follows:

"SEC. 4934. The following shall be the rates for patent fees:

"On filing each original application for a patent, except in design cases, $ 25, and $ 1 for each claim in excess of twenty.

"On issuing each original patent, except in design cases, $ 25, and $ 1 for each claim in excess of twenty.

"In design cases: For three years and six months, $ 10; for seven years, $ 15; for fourteen years, $ 30.

"On every application for the reissue of a patent, $ 30.

"On filing each disclaimer $ 10.

"On an appeal for the first time from the primary examiners to the Board of Appeals, $ 15.

"On every appeal from the examiner of interferences to the Board of Appeals, $ 25.

"For uncertified printed copies of specifications and drawings of patents, 10 cents per copy: *Provided,* That the Commissioner of Patents may supply public libraries of the United States with such copies as published, for $ 50 per annum: *Provided further,* That the Commissioner of Patents may exchange copies of United States patents for those of foreign countries.

"For copies of records made by the Patent Office, excluding printed copies, 10 cents per hundred words.

"For each certificate, 50 cents.

"For recording every assignment, agreement, power of attorney, or other paper not exceeding six pages, $ 3; for each additional two pages or less, $ 1; for each additional patent or application included or involved in one writing, where more than one is so included or involved, 50 cents additional.

"For copies of drawings, the reasonable cost of making them."

As amended June 30, 1932, ch. 314, § § 308, 309, 47 Stat. 410.

SEC. 308. After the expiration of thirty days after the enactment of this Act (but in no event prior to July 1, 1932), the base fee of $ 25 provided by section 4934 of the Revised Statutes, as amended (U. S. C., Sup. V, title 35, sec. 78), to be paid upon the filing of each original application and upon each renewal application for patent, except in design cases, and on issuing each original patent, except in design cases, is hereby increased to $ 30.

SEC. 309. Section 4934 of the Revised Statutes, as amended (U. S. C., Sup. V, title 35, sec. 78), is amended by adding at the end thereof the following:

"On filing each petition for the revival of an abandoned application for a patent, $ 10."

As amended Aug. 9, 1939, ch. 619, § 3, 53 Stat. 1293.

SEC. 3. That section 4934 of the Revised Statutes (U. S. C., title 35, sec. 78) be amended by changing the last sentence to read: "On filing each petition for the revival of an abandoned application for a patent or for the delayed payment of the fee for issuing each patent, $ 10."

As amended June 15, 1950, ch. 249, 64 Stat. 215.

That section 4934 of the Revised Statutes, as amended (U. S. C., title 35, sec. 78), is amended by inserting after "*Provided,* That the Commissioner of Patents may supply public libraries of the United States with such copies as published, for $ 50 per annum" a colon and the following: "*Provided further,* That the Commissioner of Patents may supply to any public library approved by the Commissioner, which on January 1, 1949, was receiving such copies under the preceding proviso, such copies for any year in which such library did not receive copies under the preceding proviso upon the payment of $ 50 per year for any such year."

R. S. 4935 _____ T. 35, § 42

Patent fees may be paid to the Commissioner of Patents, or to the Treasurer or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose; and such officer shall give the depositor a receipt or certificate of deposit therefor. All money received at the Patent Office, for any purpose, or from any source whatever, shall be paid into the Treasury as received, without any deduction whatever.

R. S. 4936 _____ T. 35, § 42

The Treasurer of the United States is authorized to pay back any sum or sums of money to any person who has through mistake paid the same into the Treasury, or to any receiver or depositary, to the credit of the Treasury, as for fees accruing at the Patent Of- fice, upon a certificate thereof being made to the Treasurer by the Commissioner of Patents.

STATUTES AT LARGE

Mar. 3, 1883, ch. 143 (part), 22 Stat. 625 _____ T. 35, § 266

The Secretary of the Interior and the Commissioner of Patents are authorized to grant any officer of the government, except officers and employees of the Patent Office, a patent for any invention of the classes mentioned in section forty-eight hundred and eighty-six of the Revised Statutes, when such invention is used or to be used in the public service, without the payment of any fee: *Provided,* That the applicant in his application shall state that the invention described therein, if patented, may be used by the government or any of its officers or employees in the prosecution of work for the government, or by any other person in the United States, without the payment to him of any royalty thereon, which stipulation shall be included in the patent.

As amended Apr. 30, 1928, ch. 460, 45 Stat. 467.

That so much of chapter 143 of the Act of Congress approved March 3, 1883 (Twenty-second Statutes at Large, page 625), as relates to issue of patents without payment of any fee be, and the same is hereby, amended to read as follows:

"The Commissioner of Patents is authorized to grant, subject to existing law, to any officer, enlisted man, or employee of the Government, except officers and employees of the Patent Office, a patent for any invention of the classes mentioned in section 4886 of the Revised Statutes, without the payment of any fee when the head of the department or independent bureau certifies such invention is used or liable to be used in the public interest: *Provided,* That the applicant in his application shall state that the invention described therein, if patented, may be manufactured and used by or for the Government for governmental purposes without the payment to him of any royalty thereon, which stipulation shall be included in the patent."

Feb. 4, 1887, ch. 105, § § 1 and 2, 24 Stat. 387 _____ T. 35, § 289

Hereafter, during the term of letters patent for a design, it shall be unlawful for any person other than the owner of said letters patent, without the license of such owner, to apply the design secured by such letters patent, or any colorable imitation thereof, to any article of manufacture for the purpose of sale, or to sell or expose for sale any article of

manufacture to which such design or colorable imitation shall, without the license of the owner, have been applied, knowing that the same has been so applied. Any person violating the provisions, or either of them, of this section, shall be liable in the amount of two hundred and fifty dollars; and in case the total profit made by him from the manufacture or sale, as aforesaid, of the article or articles to which the design, or colorable imitation thereof, has been applied, exceeds the sum of two hundred and fifty dollars, he shall be further liable for the excess of such profit over and above the sum of two hundred and fifty dollars; and the full amount of such liability may be recovered by the owner of the letters patent, to his own use, in any circuit court of the United States having jurisdiction of the parties, either by action at law or upon a bill in equity for an injunction to restrain such infringement.

SEC. 2. That nothing in this Act contained shall prevent, lessen, impeach, or avoid any remedy at law or in equity which any owner of letters patent for a design, aggrieved by the infringement of the same might have had if this act had not been passed; but such owner shall not twice recover the profit made from the infringement.

Feb. 18, 1888, ch. 15, 25 Stat. 40 _____ T. 35, § 153

See under R. S. 4883.

Mar. 3, 1891, ch. 541, § 1 (part) 26 Stat. 940 _____ T. 35, § 10

And certified copies of such drawings and specifications may be furnished by the Commissioner of Patents to persons applying therefor upon payment of the present rates for uncertified copies, and twenty-five cents additional for each certification.

May 19, 1896, ch. 204, 29 Stat. 124 _____ T. 35, § 41

See under R. S. 493.

Mar. 3, 1897, ch. 391, § § 1, 2, 3, 4, 5, 6, 29 Stat. 694.

T. 35, § § 101, 102, 119, 133, 211, 267, 282-6, 250, 171, 172.

See under R. S. 4886, 4920, 4887, 4894, 4898, 4921.

Mar. 3, 1897, ch. 391, § 7, 29 Stat. 694 _____ Omitted

SEC. 7. That in every case where the head of any Department of the Government shall request the Commissioner of Patents to expedite the consideration of an application for a patent it shall be the duty of such head of a Department to be represented before the Commissioner in order to prevent the improper issue of a patent.

June 10, 1898, ch. 423, § 30 Stat. 440 _____ T. 35, § 9

SEC. 1. That for the purpose of determining with more readiness and accuracy the novelty of inventions for which applications for letters patent are or may be filed in the United States Patent Office and to prevent the issuance of letters patent of the United States for inventions which are not new the Commissioner of Patents is hereby authorized and directed to revise and perfect the classification, by subjects-matter, of all letters patent and printed publications in the United States Patent Office which constitute the field of search in the examination as to the novelty of invention for which applications for patents are or may be filed.

Feb. 28, 1899, ch. 227, 30 Stat. 915 _____ T. 35, § 117

See under R. S. 4896.

Apr. 11, 1902, ch. 417, 32 Stat. 95 _____ T. 35, § 153

See under R. S. 4883.

May 9, 1902, ch. 783, 32 Stat. 193 _____ T. 35, § 171

See under R. S. 4929.

Mar. 3, 1903, ch. 1019, § § 1, 2, 3, 32 Stat. 1225-7

T. 35, § § 102, 115, 117, 119, 172.

See under R. S. 4887, 4892, 4896.

May 23, 1908, ch. 188, 35 Stat. 245 _____ T. 35, § 117

See under R. S. 4896.

May 23, 1908, ch. 189, 35 Stat. 246 _____ T. 35, § 151

See under R. S. 4885.

May 27, 1908. ch. 200, § 1 (part), 35 Stat. 343 _____ T. 35, § 41

In lieu of the fees fixed by section forty-nine hundred and thirty-four of the Revised Statutes for recording assignments, agreements, powers of attorney, or other papers in the Patent Office the following shall hereafter be the rates:

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, one dollar; of over three hundred and under one thousand words, two dollars; and for each additional thousand words or fraction thereof, one dollar.

Jan. 14, 1915, Pub. Res. 61, 38 Stat. 1221 _____ T. 35, § 12

That the Commissioner of Patents of the United States be, and he is hereby, authorized to exchange with the Dominion of Canada, under such terms of contract as may by him be deemed practicable, printed copies of patents now in the United States Patent Office and hereafter issued by the United States.

Mar. 3, 1915, ch. 94, § § 1, 2, 38 Stat. 958 _____ T. 35, § § 111-113, 162

See under R. S. 4888, 4889.

Feb. 15, 1916, ch. 22, § 1, 39 Stat. 9 _____ T. 35, § 3

See under R. S. 476.

July 6, 1916, ch. 225, § 1 (part), 39 Stat. 348 _____ T. 35, § § 133, 267

See under R. S. 4894.

Nov. 4, 1919, ch. 93, § 1 (part), 41 Stat. 335 _____ T. 35, § 41

Provided, That hereafter 10 cents per copy shall be charged for uncertified printed copies of specifications and drawings of patents.

Mar. 6, 1920, ch. 94, § 1 (part), 41 Stat. 512 _____ T. 35, § 42

Hereafter all patent fees shall be paid to the Commissioner of Patents, who shall deposit the same in the Treasury of the United States in such manner as the Secretary of the Treasury shall direct, and said commissioner is authorized to pay back any sum or sums of money paid to him by any person by mistake or in excess of the fee required by law.

Mar. 3, 1921, ch. 126, § § 1-8, 41 Stat. 1313-1315 _____ Omitted

That the rights of priority provided by section 4887 of the Revised Statutes, for the filing of applications for patent for inventions and designs, which rights had not expired on the 1st day of August, 1914, or which rights have arisen since the 1st day of August, 1914, shall be, and the same are hereby extended until the ex- piration of a period of six months from the passage of this Act in favor of the citizens of the United States or citizens or subjects of all countries which have extended, or which now extend or which within said period of six months shall extend substantially reciprocal privileges to citizens of the United States, and such extension shall apply to applications upon which patents have been granted, as well as to applications now pending or filed within the period herein: *Provided,* That such extension shall in no way furnish a basis of claim against the Government of the United States. *Provided further,* That such extension shall in no way affect the right of any citizen of the United States, who, before the passage of this Act, was bona fide in possession of any rights in patents or applications for patent conflicting with rights in patents granted or validated by reason of such extension, to exercise such rights by itself or himself personally, or by such agents, or licensees, as derived their rights from it, or him, before the passage of this Act, and such persons shall not be amenable to any action for infringement of any patent granted or validated by reason of such extension.

A patent shall not be refused on an application coming within the provisions of this Act, nor shall a patent granted on such application be held invalid by reason of the invention having been patented or described in any printed publication or in public use or on sale in the United States prior to the filing of the application, unless such patent or publication or such public use or sale was prior to the filing of the foreign application upon which the right of priority is based.

SEC. 2. That the time now fixed by law for the payment of any fee or for the taking of any action with respect to an application for patent, which time had not expired on August 1, 1914, or which commenced after August 1, 1914, is hereby extended until the expiration of one year from the passage of this Act, without the payment of extension fees or other penalty in favor of the citizens or subjects of countries which have extended, now extend, or shall extend during a period of one year from the passage of this Act substantially reciprocal privileges to citizens of the United States, provided that no extension herein shall confer such privileges on the citizens or subjects of a foreign country for a longer term than the term during which privileges are conferred by such foreign country on the citizens of the United States, but nothing in this Act shall give any right to reopen interference proceedings where final hearing before the examiner of interferences has taken place.

SEC. 3. That no patent granted or validated by reason of the extensions provided for in sections 1 and 2 of this Act shall abridge or otherwise affect the right of any citizen of the United States, or his agent or agents, or his successor in business, to continue any manufacture, use, or sale commenced before the passage of this Act by such citizen, nor shall the continued manufacture, use, or sale by such citizen, or the use or sale of the devices resulting from such manufacture or use constitute an infringement.

SEC. 4. That all applications for patent filed since August 1, 1914, and prior to June 15, 1920, which were executed by an agent of the applicant, and in which a petition, specification, and oath, signed by the inventor, or his executor or administrator, had been filed or shall have been filed within a period of one year from the passage of this Act, and the patents granted on such applications, shall have the same force and effect as if the papers signed by the inventor, or his executor or administrator, had been filed on the date on which the papers signed by the agent were filed.

SEC. 5. That all applications for patent filed since August 1, 1914, in which the oath was executed before or authenticated by a consular officer, or other representative qualified to administer oaths, of a Government acting in the interest of the Government of the United States, shall have ths same force and effect as if said oath had been executed by the applicant before a consular officer of the United States.

SEC. 6. That where an invention was made by a person while serving abroad, during the war, with the forces of the United States, civil or military, the inventor thereof shall be entitled, in interference and other proceedings arising in connection with such invention, to the same rights of priority with respect of such invention as if the same had been made in the United States, and where an application became abandoned or forfeited, during the time the applicant was serving with the forces of the United States, by reason of his failure to take action or pay a fee within the time now required by law, such action may be taken, or the fee paid, within six months from the passage of this Act.

SEC. 7. That no claim shall be made or action brought in respect of the use since August 1, 1914, up to the passage of this Act, by the Government of the United States, or by any persons acting on behalf of, or under contract with, or with the assent of the Government of the United States or of Governments or their representatives associated with the

United States, under any patent rights owned in whole or in part since August 1, 1914, by an alien enemy, nor in respect of the use of any process during such period, or the sale, offering for sale, or use, at any time, of any products, articles, or apparatus whatsoever manufactured during such period to which such patent rights applied.

SEC. 8. That nothing in this Act shall affect any act done by virtue of the special measures taken during the war under legislative, executive, or administrative authority of the United States in regard to the rights of an enemy, or ally of an enemy, as defined by the Trading with the Enemy Act of October 6, 1917, in patents for inventions and designs.

Feb. 18, 1922, ch. 58, § § 3, 5, 6, 7, 8, 9, 42 Stat. 390-393.

T. 35, § § 12, 13, 24, 31, 32, 41, 153, 261, 283-286, 291.

See under R. S. 487, 4883, 4898, 4906, 4921, 4934.

Mar. 4, 1925, ch. 535, § 1, 43 Stat. 1268 _____ T. 35, § 254

That whenever a mistake in a patent or a trade-mark registration, incurred through the fault of the Patent Office, is clearly disclosed by the records or files of the office, a certificate, stating the fact and nature of such mistake, signed by the Commissioner of Patents and sealed with the seal of the Patent Office, may be issued, without charge, and recorded in the records of patents or trade-marks, and a printed copy thereof attached to each printed copy of the patent or trade-mark registration, and such certificate shall thereafter be considered as part of the original, and every patent or trade-mark registration, together with such certificate, shall have the same effect and operation in law on the trial of all actions for causes thereafter arising as if the same had been originally issued in such corrected form. All such certificates heretofore issued in accordance with the rules of the Patent Office and the patents or trade-mark registrations to which they are attached shall have the same force and effect as if such certificates had been specifically authorized by statute.

Feb. 7, 1927, ch. 67, 44 Stat. 1058 _____ T. 35, § 287

See under R. S. 4900.

Feb. 14, 1927, ch. 139, § § 1, 2, 44 Stat. 1098-9 _____ T. 35, § § 3, 12, 13, 41

See under R. S. 476, 4934.

Mar. 2, 1927, ch. 273, § § 1, 3, 4, 5, 8, 9, 10, 11, 12, 13, 44 Stat. 1335-37.

T. 35, § § 7, 12, 13, 41, 133-5, 141-3, 146, 267, 291

See under R. S. 4894, 482, 4904, 4909, 4911, 4912, 4913, 4915, 4918, 4934.

Mar. 2, 1927, ch. 273, § 14, 44 Stat. 1337 _____ T. 35, § 21

SEC. 14. That where the day, or the last day, fixed by statute for taking any action or paying any fee in the United States Patent Office falls on Sunday, or on a holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding secular or business day.

Mar. 3, 1927, ch. 364, 44 Stat. 1394 _____ T. 35, § § 146, 291

That section 52 of the Judicial Code be, and the same is hereby, amended by adding thereto the following:

And upon the filing of a bill in the Supreme Court of the District of Columbia wherein remedy is sought under section 4915 or section 4918 of the Revised Statutes, without seeking other remedy, if it shall appear that there is an adverse party residing in a foreign country, or adverse parties residing in a plurality of districts not embraced within the same State, the court shall have jurisdiction thereof and writs shall, unless the adverse party or parties voluntarily make appearance, be issued against all of the adverse parties with the force and effect and in the manner set forth in this section; provided that writs issued against parties residing in foreign countries pursuant to this section may be served by publication or otherwise as the court shall direct."

Apr. 30, 1928, ch. 460, 45 Stat. 467 _____ T. 35, § 266

See under Mar. 3, 1883, ch. 143, 22 Stat. 625.

May 24, 1928, ch. 730, 45 Stat. 732 _____ T. 35, § § 251, 252

See under R. S. 4916.

May 31, 1928, ch. 992, § § 1-4, 45 Stat. 1012-1014 _____ Omitted

That any person who served honorably in the military or naval forces of the United States at any time between April 6, 1917, and November 11, 1918, both dates inclusive, and was subsequently honorably discharged, may within six months after the enactment of this Act, upon payment of a fee of $ 20, make application to the Commissioner of Patents, comprising a verified statement, accompanied by supporting evidence of the following facts:

(A) That he is the inventor or discoverer of an invention or discovery for which a specified patent was granted prior to the 11th day of November, 1918, the original term of which remains unexpired at the time of the filing of the application.

(B) That between April 6, 1917, and November 11, 1918, and also at the time of the passage of this Act, he held, by ownership or contract, a right in said invention or under said patent or to income by way of royalty or otherwise therefrom, whereby an extension of the term of said patent would benefit him.

(C) That between April 6, 1917, and July 2, 1921, he was not receiving from said patent an income, or that his income therefrom was reduced by his said service.

(D) That at the time of his induction into the service he was making diligent effort to exploit the invention covered by his patent.

(E) The names of all persons, firms, or corporations, if any, holding at the time of the passage of this Act, by grant, transfer, license, or contract from him, any right or interest in the invention or discovery or under the patent, and their consent to the extension for which application is made, which shall be supported by an instrument, or instruments, executed by all such persons, firms, and corporations, evidencing their consent to such extension.

(F) The period of extension of the patent from the expiration of the original term thereof, for which he applies, which shall in no case exceed a further term of three times the length of his said service in the military or naval forces of the United States between the dates of April 6, 1917, and July 2, 1921, but exclusive of any reenlistment subsequent to November 11, 1918.

(G) That the licensee of a patent affected by this Act shall automatically be granted an extension of said license for the period of the extension on the same terms and conditions as contained in said existing license, thereby creating an equitable adjustment of the benefits of this Act.

(H) That such extension shall in no way impair the right of anyone who before the passage of this Act was bona fide in possession of any rights in patents or applications for patents conflicting with the rights in any patents extended under this Act, nor shall any extension granted under this Act impair the right of anyone who was lawfully manufacturing before the passage of this Act the invention covered by the extended patent.

SEC. 2. In the case of a veteran, as described in paragraph 1 of this Act, who dies, or has died, or who becomes insane or unable to act, which veteran owned an interest as described in this Act in said patent at the time of his death or at the time he was declared mentally incompetent or became unable to act before said extension is granted, such application may be filed or proceeded with by his legal representatives substantially as provided in section 4896 of the Revised Statutes of the United States (United States Code, title 35, section 46), as amended, with respect to proceedings in such cases for obtaining a patent.

SEC. 3. On the filing of such application the Commissioner of Patents shall cause an examination thereof to be made, and if, on such examination, it shall appear that such application conforms, or by amendment or supplement is made to conform, to the requirements of section 1 of this Act, the commissioner shall cause notice of such application to be published at least once in the Official Gazette. Any person who believes that he would be injured by such extension

may within forty-five days from such publication oppose the same on the ground that any of the statements of the application for extension required by section 1 of this Act is not true in fact, which said notice of opposition shall be verified before an officer authorized by the laws of any State or Territory or the District of Columbia to administer oaths. In all cases where notice of opposition is filed the Commissioner of Patents shall notify the applicant for extension thereof and set a day of hearing. If after such hearing the Commissioner of Patents is of the opinion that such extension should not be granted, he may deny the application therefor, stating in writing his reasons for such denial. Where an extension is refused the applicant therefor shall have the same remedy by appeal from the decision of the commissioner as is now provided by law where an application for patent is refused. If no opposition to the grant of the extension if filed, or if, after opposition is filed, it shall be decided that the applicant is entitled to the extension asked for, the Commissioner of Patents shall issue a certificate that the term of said patent is extended for the additional period for which application has been made as aforesaid, and shall cause notice of such extension to be published in the Official Gazette and marked upon copies of the patent for sale by the Patent Office, in such manner as the commissioner may determine.

SEC. 4. Thereupon said patent shall have the same force and effect in law as though it had been originally granted for seventeen years plus the term of such extension: *Provided, however,* That in any action, at law or in equity, for infringement after the expiration of seventeen years from the grant of the patent and during the period of such extension, the defendant may plead the general issue, and having given notice in writing to the plaintiff or his attorney thirty days before, may prove on trial that any of the statements of the application for extension required by section 1 of this Act is not true in fact; and if any one or more of such statements shall be found untrue in fact, judgment shall be rendered for the defendant, with costs: *Provided further,* That no person whose patent shall be extended under the provisions of this Act shall be permitted to make any claim for damages against the United States for the period of the extension, and the rights of the United States shall remain in all respects as if these patents had not been extended.

Mar. 2, 1929, ch. 488, § 2 (b), 45 Stat. 1475 _____ T. 35, § § 141, 145, 146

See under R. S. 4911, 4915.

Apr. 11, 1930, ch. 132, § § 1, 2, 3, 46 Stat. 155_____ T. 35, § § 3, 7, 12, 13, 41

See under R. S. 476, 482, 4934.

Apr. 11, 1930, ch. 132, § 5, 46 Stat. 156 _____ Omitted

SEC. 5. The money required for the Patent Office each year, commencing with the fiscal year 1932, shall be appropriated by law out of the revenues of that office, except as otherwise provided by law.

May 23, 1930, ch. 312, § § 1, 2, 3, 46 Stat. 376

T. 35, § § 101, 102, 111, 112, 115, 154, 162, 171

See under R. S. 4884, 4886, 4888, 4892.

May 23, 1930, ch. 312, § 4, 46 Stat. 376 _____ T. 35, § 163

SEC. 4. The President may by Executive order direct the Secretary of Agriculture (1) to furnish the Commissioner of Patents such available information of the Department of Agriculture, or (2) to conduct through the appropriate bureau or division of the department such research upon special problems, or (3) to detail to the Commissioner of Patents such officers and employees of the department, as the commissioner may request for the purposes of carrying this Act into effect.

May 23, 1930, ch. 312, § 5, 46 Stat. 376 _____ Omitted

SEC. 5. Notwithstanding the foregoing provisions of this Act, no variety of plant which has been introduced to the public prior to the approval of this Act shall be subject to patent.

May 23, 1930, ch. 312, § 6, 46 Stat 376 _____ § 3 of bill

SEC. 6. If any provision of this Act is declared unconstitutional or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and the application thereof to other persons or circumstances shall not be affected thereby.

June 30, 1932, ch. 314, § § 308, 309, 47 Stat. 410_____ T. 35, § 12, 13, 41

See under R. S. 4934.

June 19, 1936, ch. 594, 49 Stat. 1529 _____ T. 35, § 102, 119, 172

See under R.S. 4887.

May 9, 1938, ch. 188, § 477, 52 Stat. 342 _____ T. 35, § 33

That it shall be unlawful for any person who has not been duly recognized to practice before the United States Patent Office in accordance with the provisions of Section 487 of the Revised Statutes (U. S. C., title 35, sec. 11) and the rules of the Patent Office to hold himself out or knowingly permit himself to be held out as a patent solicitor, patent agent, or patent attorney, or otherwise in any manner hold himself out, either directly or indirectly, as authorized to represent applicants for patent in their business before the Patent Office, and it shall be unlawful for any person who has, under the authority of section 487 of the Revised Statutes (U. S. C., title 35, sec. 11) been disbarred or excluded from practice before the Patent Office, and has not been reinstated, to hold himself out in any manner whatever as entitled to represent or assist persons in the transaction of business before the Patent Office or any division thereof; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine of not less than $ 50 and not exceeding $ 500.

Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212 _____ T. 35, § § 101, 102, 119, 171, 172

See under R. S. 4886, 4887, 4920, 4929.

Aug. 5, 1939, ch. 450, § 2, 53 Stat. 1212 _____ Sec. 4 (d) of bill

SEC. 2. This Act shall take effect one year after its approval and shall apply to all applications for patent filed after it takes effect and to all patents granted on such applications: *Provided, however,* That all applications for patents filed prior to the time this Act takes effect and all patents granted on such applications are to be governed by the statutes in force at the time of approval of this Act as if such statutes had not been amended.

Aug. 5, 1939, ch. 451, § § 1, 2, 3, 4, 53 Stat. 1212

T. 35, § § 134, 135, 141, 145, 146

See under R. S. 4904, 4909, 4911, 4915.

Aug. 5, 1939, ch. 452, § 1, 53 Stat. 1213 _____ T. 35, § § 132, 135

See under R. S. 4903.

Aug. 7, 1939, ch. 568, 53 Stat. 1264 _____ T. 35, § § 133, 267

See under R. S. 4894.

Aug. 9, 1939, ch. 619, § § 2, 3, 53 Stat. 1293 _____ T. 35, § § 12, 13, 41, 151

See under R. S. 4885, 4934.

Aug. 18, 1941, ch. 370, 55 Stat. 634 _____ T. 35, § 261

See under R. S. 4898.

Aug. 1, 1946, ch. 726, 60 Stat. 778 _____ T. 35, § § 283-6, 291

See under R. S. 4921.

July 5, 1946, ch. 541, § 301 (part), 60 Stat. 471 _____ T. 35, § 41

Provided, That hereafter on July 1, 1946, and thereafter 25 cents per copy shall be charged for uncertified copies of specifications and drawings of patents, and 10 cents per copy for design patents and certificates of trade-mark registration.

Aug. 8, 1946, ch. 910, § 9, 60 Stat. 943 _____ T. 35, § 104

SEC. 9. That in proceedings in the Patent Office and in the courts of the United States an applicant for a patent for an invention, discovery, or a design, or a patentee, shall not be permitted to establish the date of invention or discovery by reference to knowledge or use thereof, or other activity with respect thereto, in a country foreign to the United States, other than the filing in a foreign country of an application for a patent for the same invention, discovery, or design which, in accordance with and subject to the provisions of section 4887 of the Revised Statutes, as amended, or in accordance with and subject to the provisions of this Act, is entitled to have the same force and effect as it would have had if filed in the United States on the date on which it was filed in such foreign country: *Provided,* That where an invention was made by a person, civil or military, during the time such person was domiciled in the United States or its possessions and was serving in a foreign country in connection with the prosecution of the war on behalf of the United States or its allies, the inventor thereof shall be entitled, in interference and other proceedings arising in connection with such invention, to the same rights of priority with respect to such invention as if the same had been made in the United States.

Mar. 4, 1950, ch. 50, 64 Stat. 11_____ T. 35, § 7

See under R. S. 482.

June 15, 1950, ch. 249, 64 Stat. 215 _____ T. 35, § § 12, 13, 41

See under R. S. 4934.

Oct. 31, 1951, ch. 655, § 53a, 65 Stat. 728 _____ T. 35, § § 146, 291

SEC. 53a. (a) Upon the filing of a complaint in the United States District Court for the District of Columbia wherein remedy is sought under section 4915 or section 4918 of the Revised Statutes, as amended (35 U. S. C., secs. 63 and 66), without seeking other remedy, if it shall appear that there is an adverse party residing in a foreign country, or adverse parties residing in a plurality of districts not embraced within the same State, the court shall have jurisdiction thereof and process shall, unless the adverse party or parties voluntarily make appearance, be issued against all of the adverse parties and served anywhere within the United States, except that process issued against parties residing in foreign countries pursuant to this section may be served by publication or otherwise as the court may direct.

(b) The provision of subsection (a) of this section shall be deemed to be in effect as of September 1, 1948.

Feb. 1, 1952, ch. 4, § § 1-9, 11, 12, 66 Stat. 3-6

T. 35, § § 181-188

That whenever publication or disclosure by the grant of a patent or an invention in which the Government has a property interest might, in the opinion of the head of the interested Government agency, be detrimental to the national security, the Secretary of Commerce upon being so notified shall order that the invention be kept secret and shall withhold the grant of a patent therefor under the conditions set forth hereinafter.

Whenever the publication or disclosure of an invention by the granting of a patent, in which the Government does not have a property interest, might, in the opinion of the Secretary of Commerce, be detrimental to the national security, he shall make the application for patent in which such invention is disclosed available for inspection to the Atomic Energy Commission, the Secretary of Defense, and the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

Each individual to whom the application is disclosed shall sign a dated acknowledgment thereof, which acknowledgment shall be entered in the file of the application. If, in the opinion of the Atomic Energy Commission, the Secretary of a Defense Department, or the chief officer of another department or agency so designated, the publication or disclosure of the invention by the granting of a patent therefor would be detrimental to the national security, the Atomic Energy Commission, the Secretary of a Defense Department, or such other chief officer shall notify the Secretary of Commerce and the Secretary of Commerce shall order that the invention be kept secret and shall withhold the grant of a patent for such period as the national interest requires, and notify the applicant thereof. Upon proper showing by the head of the department or agency who caused the secrecy order to be issued that the examination of the application might jeopardize the national interest, the Secretary of Commerce shall thereupon maintain the application in a sealed condition and notify the applicant thereof. The owner of an application which has been placed under a secrecy order shall have a right to appeal from the order to the Secretary of Commerce under rules prescribed by him.

An invention shall not be ordered kept secret and the grant of a patent withheld for a period of not more than one year. The Secretary of Commerce shall renew the order at the end thereof, or at the end of any renewal period, for additional periods of one year upon notification by the head of the department or the chief officer of the agency who caused the order to be issued that an affirmative determination has been made that the national interest continues so to require. An order in effect, or issued, during a time when the United States is at war, shall remain in effect for the duration of hostilities and one year following cessation of hostilities. An order in effect, or issued, during a national emergency declared by the President shall remain in effect for the duration of the national emergency and six months thereafter. The Secretary of Commerce may rescind any order upon notification by the heads of the departments and the chief officers of the agencies who caused the order to be issued that the publication or disclosure of the invention is no longer deemed detrimental to the national security.

SEC. 2. The invention disclosed in an application for patent subject to an order made pursuant to section 1 hereof may be held abandoned upon its being established by the Secretary of Commerce that in violation of said order the invention has been published or disclosed or that an application for a patent therefor has been filed in a foreign country by the inventor, his successors, as- signs, or legal representatives, or anyone in privity with him or them, without the consent of the Secretary of Commerce. The abandonment shall be held to have occurred as of the time of violation. The consent of the Secretary of Commerce shall not be given without the concurrence of the heads of the departments and the chief officers of the agencies who caused the order to be issued. A holding of abandonment shall constitute forfeiture by the applicant, his successors, assigns, or legal representatives, or anyone in privity with him or them, of all claims against the United States based upon such invention.

SEC. 3. An applicant, his successors, assigns, or legal representatives, whose patent is withheld as herein provided, shall have the right, beginning at the date the applicant is notified that, except for such order, his application is otherwise in condition for allowance, or the effective date of this Act, whichever is later, and ending six years after a patent is issued thereon, to apply to the head of any department or agency who caused the order to be issued for compensation for the damage caused by the order of secrecy and/or for the use of the invention by the Government, resulting from his disclosure. The right to compensation for use shall begin on the date of the first use of the invention by the Government. The head of the department or agency is authorized, upon the presentation of claim, to enter into an agreement with the applicant, his successors, assigns, or legal representatives, in full settlement for the damage and/or use. This settlement agreement shall be conclusive for all purposes notwithstanding any other provision of law to the contrary. If full settlement of the claim cannot be effected, the head of the department or agency may award and pay to such applicant, his successors, assigns, or legal representatives, a sum not exceeding 75 per centum of the sum which the head of the department or agency considers just compensation for the damage and/or use. A claimant may bring suit against the United States in the Court of Claims or in the District Court of the United States for the district in which such claimant is a resident for an amount which when added to the award shall constitute just compensation for the damage and/or use of the invention by the Government. The owner of any patent issued upon an application that was subject to a secrecy order issued pursuant to section 1 hereof, who did not apply for compensation as above provided, shall have the right, after the date of issuance of such patent, to bring suit in the Court of Claims for just compensation for the damage caused by reason of the order of secrecy and/or use by the Government of the invention resulting from

his disclosure. The right to compensation for use shall begin on the date of the first use of the invention by the Government. In a suit under the provisions of this section, and in negotiations concerning settlement of a claim, the United States may avail itself of all defenses it may plead in an action under title 28, United States Code, section 1498 , as amended. This section shall not confer a right of action on anyone or his successors, assigns, or legal representatives who, while in the full-time employment or service of the United States, discovered, invented, or developed the invention on which the claim is based.

SEC. 4. Except when authorized by a license obtained from the Secretary of Commerce a person shall not file or cause or authorize to be filed in any foreign country prior to six months after filing in the United States an application for patent or for the registration of a utility model, industrial design, or model in respect of an invention made in this country. A license shall not be granted with respect to an invention subject to an order issued by the Secretary of Commerce pursuant to section 1 hereof without the concurrence of the head of the departments and the chief officers of the agencies who caused the order to be issued. The license may be granted retroactively where an application has been inadvertently filed abroad and the application does not disclose an invention within the categories prescribed under section 1 hereof.

The term "application" when used in this Act includes applications and any modifications, amendments, or supplements thereto, or divisions thereof.

SEC. 5. Notwithstanding any other provisions of law any person, and his successors, assigns, or legal representatives, shall not receive a United States patent for an invention if that person, or his successors, assigns, or legal representatives shall, without procuring the license prescribed in section 4 hereof, have made, or consented to or assisted another's making, application in a foreign country for a patent or for the registration of a utility model, industrial design, or model in respect of the invention. A United States patent issued to such person, his successors, assigns, or legal representatives shall be invalid.

SEC. 6. Whoever, during the period or periods of time an invention has been ordered to be kept secret and the grant of a patent thereon withheld pursuant to section 1 hereof, shall, with knowledge of such order and without due authorization, willfully publish or disclose or authorize or cause to be published or disclosed the invention, or material information with respect thereto, or whoever, in violation of the provisions of section 4 hereof, shall file or cause or authorize to be filed in any foreign country an application for patent or for the registration of a utility model, industrial design, or model in respect of any invention made in the United States, shall, upon conviction, be fined not more than $ 10,000 or imprisoned for not more than two years, or both.

SEC. 7. The prohibitions and penalties of this Act shall not apply to any officer or agent of the United States acting wthin the scope of his authority, nor to any person acting upon his written instructions or permission.

SEC. 8. The Atomic Energy Commission, the Secretary of a defense department, the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States, and the Secretary of Commerce, may separately issue rules and regulations to enable the respective department or agency to carry out the provisions of this Act, and may delegate any power conferred by this Act.

SEC. 9. If any provision of this Act or of any section hereof shall be held invalid, the remainder of the Act shall not be affected thereby.

SEC. 11. Nothing in this Act shall be construed to alter, amend, revoke, repeal, or otherwise affect the provisions of the Atomic Energy Act of 1946 (60 Stat. 755), as amended.

SEC. 12. This Act may be cited as the "Invention Secrecy Act of 1951".

2. Comparative Text of Statutes Amended

In compliance with paragraph 2a (2) of rule XIII of the Rules of the House of Representatives, a comparative print of the part of an act to be amended by section 2 of the bill follows. This amendment merely changes references to the old statutes to appropriate references to proposed title 35.

The comparative text of the proposed amendment is set forth below with omissions indicated by brackets and additions by italics.

Section 2 of the Bill

Amends Act July 5, 1946, ch. 540, § 21, 60 Stat. 435, (15 U. S. C., 1946 ed., § 1071).

Comparative text.--

Any applicant for registration of a mark, party to an interference proceeding, party to an opposition proceeding, party to an application to register as a lawful concurrent user, party to a cancelation proceeding, or any registrant who has filed an affidavit as provided in section 8, who is dissatisfied with the decision of the Commissioner may appeal to the United States Court of Customs and Patent Appeals or may proceed under [section 4915, Revised Statutes] *35 United States Code, sections 145 and 146 ,* as in the case of applicants for patents, under the same conditions, rules and procedure as are prescribed in the case of patent appeals or proceedings so far as they are applicable: *Provided,* That any party who is satisfied with the decision of the Commissioner shall, upon the filing of an appeal to the Court of Customs and Patent Appeals by any dissatisfied party, have the right to elect to have all further proceedings under [Revised Statutes 4915] *35 United States Code, section 146 ,* by election as provided in [Revised Statutes 4911] *35 United States, Code, section 141.* The Commissioner of Patents shall not be a necessary party to an inter partes proceeding under [Revised Statutes 4915] *35 United States Code, section 146 ,* but he shall be notified of the filing of employee.